

Cherryvale Zoning Regulations

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CHERRYVALE, KANSAS

ZONING REGULATIONS

ARTICLE 1

TITLE

1. These regulations, including the zoning district maps made a part hereof, shall be known and may be cited and referred to as the Cherryvale Zoning Ordinance.

ARTICLE 2

PURPOSE AND INTENT

1. This zoning ordinance, adopted pursuant to the provisions of K.S.A.12-707 through K.S.A.12-715d, is intended to serve the following purposes:
 - To promote the health, safety, morals, comfort and general welfare of the City; and
 - To preserve and protect property values throughout the City; and
 - To restrict and regulate the height, number of stories, and size of buildings; the percentage of lot coverage; the size of yards, courts, and other open spaces; and the density of population; and
 - To divide the City and its extraterritorial jurisdiction into zones and districts; and
 - To regulate and restrict the location and use of buildings and land within each district or zone.
 - To protect rural residents from premature encroachment by urban uses.

ARTICLE 3

GENERAL PROVISIONS

1. **Jurisdictional Area:** The provisions of these regulations shall apply to all structures and land in the incorporated area of Cherryvale, Kansas.

The jurisdictional area shall be shown on the Official Zoning District Map.

In the event that the annexation of land to the City of Cherryvale increases the area to which jurisdiction could be extended, such extension of jurisdiction shall only be made by the same procedure required for the amendment of these zoning regulations as provided by Article 10.

2. **Establishment of Districts:** The jurisdictional area is hereby divided into eleven (11) zoning districts which are designated as follows:

“A-1” Agricultural District
“R-1” Residential - Low Density District
“R-2” Residential - Medium Density District
“R-3” Residential - High Density District
“R-4” Mobile Home Park District
“B-1” Business - Office District
“B-2” Business - Highway Service District
“B-3” Business - General District
“B-4” Business - Primary District
“I-1” Industrial - Light District
“I-2” Industrial - Heavy District

3. **Zoning District Maps:** The boundaries of the districts are shown on the Official Zoning District Maps which are filed in the office of the City Clerk. Each of the said zoning maps, with all notations, references, and other information shown thereon, is as much as part of these zoning regulations as if such notations, references, and other information were specifically set forth herein.

4. **Rules Where Uncertainty May Arise:** Where uncertainty exists with respect to the boundaries of the various districts as shown on the Official Zoning District Maps, incorporated herein, the following rules apply:

The district boundaries are the center lines of streets, alleys, waterways, and railroad right-of-way, unless otherwise indicated; and where the designation of a boundary line on the zoning map coincides with the location of a street, alley, waterway, or railroad right-of-way, the centerline of such street, alley, waterway or railroad rights-of-way shall be construed to be the boundary line of such district.

Where the district boundaries do not coincide with the location of streets, waterways, or railroad rights-of-way but do coincide with lot lines, such lot lines shall be construed to be the boundary of such district.

Where none of the above rules apply, the district boundaries shall be determined by the use of the scale shown on the zoning map.

5. **Exemptions:** The following structures and uses shall be exempt from the provisions of these regulations:

Poles, wires, cables, conduits, vaults, laterals, pipes, mains, valves, or other similar equipment for the distribution to consumers of telephone or other communications, electricity, gas, or water, or the collection of sewage or surface water operated or maintained by a public utility but not including substations located on or above the surface of the ground.

Railroad tracks, signals, bridges, and similar facilities and equipment located on a railroad right-of-way, and maintenance and repair work on such facilities and equipment.

Agriculture as defined by these regulations. In the event that any structure or land ceases to be used only for agriculture, then such structure or land shall be subject to the applicable regulations of this ordinance.

Retaining walls.

Governmentally-owned and/or maintained signs.

6. **Application of Regulations:** The following general requirements shall apply to all zoning districts:

No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with these regulations.

7. **Annexed Land:** All land which may hereinafter be annexed to the City of Cherryvale shall be classified the same as its classification prior to annexation.

Article 4

DISTRICT REGULATIONS

“A-1” AGRICULTURAL DISTRICT

1. **Intent:** It is the intent of this district to provide for agricultural and related uses; and preserve and protect agricultural resources.
2. **Permitted Uses:** Generally, farming and ranching operations, single-family homes (including mobile homes on permanent foundations), recreational, religious, educational, institutional and public uses are permitted. For a specific listing of permitted uses, see Appendix “A” of these regulations.
3. **Conditional Uses:** Generally, commercial feedlots, livestock auction facilities, sand and gravel extraction, oil and gas operations, salvage yards and the processing of agricultural products are allowed on a conditional basis. For a specific listing of conditionally permitted uses, see Appendix “A” of these regulations.
4. **Intensity of Use Regulations:**
 - Minimum lot area: 1 acre for all uses.
 - Minimum lot width: 150 feet.
5. **Height Regulations:** Maximum structure height: 35 feet.
6. **Yard Regulations:** Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:
 - Front Yard: 30 feet.
 - Side Yard: 20 feet.
 - Rear Yard: 40 feet.
7. **Use Limitations:** None.

“R-1” RESIDENTIAL - LOW DENSITY DISTRICT

1. **Intent:** The intent of this district is to provide for low density residential development including those uses which reinforce residential neighborhoods.

2. **Permitted Uses:** Generally, single-family residences, parks, educational and religious uses are permitted. For a specific listing of permitted uses, see Appendix “A” of these regulations.
3. **Conditional Uses:** For a specific listing of conditionally permitted uses, see Appendix “A” of these regulations.
4. **Intensity of Use Regulations:**

Minimum lot area: 7,000 square feet.

Minimum lot width: 50 feet.
5. **Height Regulations:** Maximum structure height: 35 feet.
6. **Yard Regulations:** Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:

Front Yard: 25 feet.

Side Yard: 10 feet.

Rear Yard: 30 feet.
7. **Use Limitations:** None.

“R-2” RESIDENTIAL - MEDIUM DENSITY DISTRICT

1. **Intent:** The intent of this district is to provide for moderate density residential development, including two-family and higher density single-family dwellings, in a manner which will encourage a strong residential neighborhood.
2. **Permitted Uses:** Generally, single-family residences, two-family residences, parks, educational and religious uses are permitted. For a specific listing of permitted uses, see Appendix “A” of these regulations.
3. **Conditional Uses:** For a specific listing of conditionally permitted uses, see Appendix “A” of these regulations.
4. **Intensity of Use Regulations:**

Minimum lot area: Single-family - 6,000 square feet.
Two-family - 3,000 square feet/d.u.
Single-family attached - 3,000 square feet/dwelling unit.
Other uses - 7,500 square feet.

Minimum lot width: 50 feet, except as provided in 5.2, Yard Regulations.

5. **Height Regulations:** Maximum structure height: 35 feet.
6. **Yard Regulations:** Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:

Front Yard: 25 feet.

Side Yard: 7 feet, except as provided in Section 5.2, Yard Regulations.

Rear Yard: 30 feet.
7. **Use Limitations:** None.

“R-3” RESIDENTIAL - HIGH DENSITY DISTRICT

1. **Intent:** The intent of this district is to provide for high density residential development, including single-family, two-family and multi-family residences, in a manner which will encourage a strong residential neighborhood.
2. **Permitted Uses:** Generally, single-family, two-family and multi-family residents and nursing homes, parks, educational and religious uses are permitted. For a specific listing of permitted uses, see Appendix “A” of these regulations.
3. **Conditional Uses:** For a specific listing of conditionally permitted uses, see Appendix “A” of these regulations.
4. **Intensity of Use Regulations:**

Minimum lot area: Single-family - 5,000 square feet
Two-family - 3,000 square feet/dwelling unit.
Single-family attached - 3,000 square feet/dwelling unit.
Multi-family - 1,500 square feet/d.u. or 6,000 feet, whichever is greater.
Dwellings for the Elderly -1,000 square feet/dwelling unit.
Other uses - 7,500 square feet.

Minimum lot width: 50 feet, except as provided in 5.2, Yard Regulations.

5. **Height Regulations:** Maximum structure height: 45 feet.

Recommended Maximum Structure Height: 35 feet.
6. **Yard Regulations:** Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:

Front Yard: 25 feet.

Side Yard: 5 feet, except as provided in 5.2, Yard Regulations.

Rear Yard: 30 feet.

7. **Use Limitations:** None.

“R-4” MOBILE HOME PARK RESIDENTIAL DISTRICT

1. **Intent:** It is the intent of this district to provide medium density manufactured home park development which is compatible with the character of the surrounding neighborhood in which it is located. Manufactured home parks are considered as a residential use and should be located in areas where services and amenities are available such as those found in conventional residential areas.

2. **Permitted Uses:** The listing of permitted uses is set out in Appendix “A” of these regulations.

3. **Conditional Uses:** For a specific listing of conditionally permitted uses, see Appendix “A” of these regulations.

4. **Intensity of Use Regulations:**

Minimum lot area: 2 acres.

Minimum lot width: 150 feet.

5. **Height Regulations:** Maximum structure height: 35 feet.

6. **Yard Regulations:** Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:

Front Yard: 25 feet.

Side Yard: 10 feet.

Rear Yard: 30 feet.

7. **Use Limitations:** Each manufactured home park shall be designed in accordance with the following minimum design standards:

A. Minimum Design Standards:

- (1) The park shall be located on a well-drained site, properly graded to insure

rapid drainage and freedom from stagnant pools of water.

- (2) Manufactured home parks hereafter approved shall have a maximum density of eight (8) manufactured homes per gross acre, and a minimum area of 4,000 square feet shall be provided for each manufactured home space.
- (3) Each manufactured home space shall be at least 40 feet wide and be clearly defined.
- (4) All manufactured homes shall be so located to maintain a clearance of not less than twenty (20) feet from another manufactured home or 25 feet from any building within the park.
- (5) All manufactured home spaces shall front upon a private roadway of not less than 24 feet in width, including curbs on each side; provided, however, that no on-street parking is permitted. If parallel parking is permitted on one side of the street, the width shall be increased to 30 feet, and if parallel parking is permitted on both sides of the street, the width shall be increased to 36 feet. All roadways shall have unobstructed access to a public street.
- (6) All roadways and sidewalks within the manufactured home park shall be of all-weather surfacing and shall be adequately lighted at night.
- (7) A community building may be provided which may include recreation facilities, laundry facilities, storm shelter, and other similar uses.
- (8) The perimeter of all manufactured homes shall be fully skirted with a finished appearance as approved by the building inspector.

B. Water Supply:

- (1) Water shall be supplied to the park by a public water system.
- (2) The size, location and installation of water lines shall be in accordance with the requirements of the Building Codes of the City.
- (3) Individual water service connections shall be provided at each manufactured home space.

C. Sewage Disposal: Individual sewer connections shall be provided for each manufactured home space and shall be installed in accordance with the Building Codes of the City. A public sewer system shall be used.

D. Tie-Downs and Ground Anchors: All manufactured homes shall be secured to

the ground by tie-downs and ground anchors in accordance with the manufactured home and Recreational Vehicle Code, K.S.A. 75-1211 to 75-1234, as amended.

- E. Electrical:** Each manufactured home space shall be provided with an individual electrical outlet supply which shall be installed in accordance with the Building Codes of the City and requirements of the electric supplier.
- F. Gas:** Natural gas hookups, when provided, shall be installed in accordance with the Building Codes of the City and the regulations of the gas supplier.
- G. Refuse and Garbage Handling:**
 - (1) Storage, collection and disposal of refuse in a park shall be so conducted as to create no health hazards, rodent harborage, insect breeding areas, accidents, fire hazards or air pollution.
 - (2) All refuse shall be stored in fly-tight, watertight, rodent-proof containers. Containers shall be provided in sufficient number and capacity to properly store all refuse.
- H. Blocking:** All manufactured homes shall be blocked at a maximum of ten (10) foot centers around the perimeter of each manufactured home in accordance with the manufactured home and Recreational Vehicle Code, K.S.A. 75-1211 to 75-1234 as amended.
- I. Pad Requirements:** Shall be a flexible surface with a minimum of five (5) inch thick gravel, stone or compacted surface, treated to discourage plant growth, constructed to discharge water and edged to prohibit fraying or spreading of surfacing materials; or shall be of a hard surface of a minimum of two eighteen (18) inch wide concrete ribbons or slabs capable of carrying the weight and if sufficient length to support all blocking points of the manufactured home.

8. Application Requirements:

- A.** An applicant for “R-4” Manufactured Home Park District shall prepare or cause to be prepared a preliminary manufactured home Park Plan, drawn to a scale of not less than 1” = 100’, and ten (10) copies of said Plan shall be submitted to the Planning Commission for its review and recommendations. Said plan shall be designed in accordance with Section 4-77.1 Minimum Design Standards and shall have contours shown at two (2) foot intervals.
- B.** Upon approval of the preliminary manufactured home park plan by the Planning Commission, the applicant shall prepare and submit a final plan which shall incorporate any changes or alterations requested. The final plan and the Planning Commission recommendation shall be forwarded to the Governing Body for their

review and final action.

- C. Any substantial deviation from the approved plan, as determined by the Zoning Administrator, shall constitute a violation of these regulations. Changes in plans shall be resubmitted for reconsideration and approval by the Planning Commission and Governing Body prior to the occupancy of the manufactured home Park.

“B-1” BUSINESS - OFFICE DISTRICT

- 1. **Intent:** The intent of this district is to provide a zone which is suitable to accommodate service and office uses which are located adjacent to the central business district or on materials leading to the downtown area. The district is also intended to serve as a transition zone between intensive commercial districts and less intensive residential areas.
- 2. **Permitted Uses:** Generally, offices, services, religious and educational uses. For a specific listing of permitted uses, see Appendix “A” of these regulations.
- 3. **Conditional Uses:** For a specific listing of conditionally permitted uses, see Appendix “A” of these regulations.

- 4. **Intensity of Use Regulations:**

Minimum lot area: 6,000 square feet.

Minimum lot width: 50 feet, except as provided in 5.2, Yard Regulations.

- 5. **Height Regulations:** Maximum height of structure: 45 feet.
- 6. **Yard Regulations:** Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:

Front Yard: 25 feet.

Side Yard: 7 feet.

Rear Yard: 30 feet.

- 7. **Use Limitations:**

- A. Properties with contaminant concentrations in soil above the Kansas Department of Health and Environment (KDHE) risk-based standards for residential use but lower than the KDHE risk-based standards for non-residential use must remain zoned a non-residential (business or industrial), and daycare and school uses shall

not be permitted.

“B-2” BUSINESS - HIGHWAY SERVICE

1. **Intent:** This district is intended to provide commercial locations for use which serve as a convenience to the traveler or require a location on a highway or arterial in order to have an efficient operation. Screening and off-street parking are required to reduce possible adverse effects on surrounding residential uses.
2. **Permitted Uses:** Generally, motels, service stations, restaurants, and neighborhood retail uses are permitted. For a specific listing of permitted uses, see Appendix “A” of these regulations.
3. **Conditional Uses:** None.
4. **Intensity of Use Regulations:**
 - Minimum lot area: 6,000 square feet.
 - Minimum lot width: 50 feet.
5. **Height Regulations:** Maximum structure height: 45 feet
6. **Yard Regulations:** Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:
 - Front Yard: 25 feet.
 - Side Yard: 5 feet.
 - Rear Yard: 20 feet.
7. **Use Limitations:**
 - A. Gasoline pumps, air and water service and other fixtures used in connection with automobile service stations may be located within the front yard but not less than 12 feet from the front lot lines and, in any event, not less than 40 feet from the centerline of any street or road on which the service station abuts.
 - B. No outdoor storage shall be permitted except for the display of merchandise for sale to the public.
 - C. Exterior lighting fixtures shall be shaped wherever necessary to avoid casting direct light on any property located in a residential district.

- D. A solid or semi-solid fence, hedge or wall at least six (6) feet, but not more than eight (8) feet, high and having a density of not less than seventy (70) percent per square foot shall be provided adjacent to any adjoining residential district unless the adjacent residential district and the commercial development are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the “B-2” District.
- E. Properties with contaminant concentrations in soil above the Kansas Department of Health and Environment (KDHE) risk-based standards for residential use but lower than the KDHE risk-based standards for non-residential use must remain zoned a non-residential (business or industrial), and daycare and school uses shall not be permitted.

“B-3” BUSINESS - GENERAL DISTRICT

- 1. **Intent:** The intent of this district is to provide a zone for those commercial uses which are intensive in nature and which require large lots and direct access to major streets.
- 2. **Permitted Uses:** Generally, automobile and implement sales, lumber yards, contractor’s yards, offices, neighborhood retailing and similar uses are permitted. For a specific listing of permitted uses, see Appendix “A” of these regulations.
- 3. **Conditional Uses:** For a specific listing of conditionally permitted uses, see Appendix “A” of these regulations.
- 4. **Intensity of Use Regulations:**
 - Minimum lot area: 8,000 square feet.
 - Minimum lot width: 60 feet.
- 5. **Height Regulations:** Maximum structure height: 45 feet.
- 6. **Yard Regulations:** Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:
 - Front Yard: 25 feet.
 - Side Yard: 10 feet if abutting a residential district, otherwise no side yard is required.
 - Rear Yard: 20 feet.
- 7. **Use Limitations:** Same as “B-2” District

“B-4” BUSINESS - PRIMARY DISTRICT

1. **Intent:** The intent of this district is to provide a zone which will accommodate the broad range of retail shopping activities and office uses that are normally found in the core area of a city.
2. **Permitted Uses:** The listing of permitted uses is set out in Appendix “A” of these regulations.
3. **Conditional Uses:** The listing of permitted uses is set out in Appendix “A” of these regulations.
4. **Intensity of Use Regulations:**
 - Minimum lot area: None.
 - Minimum lot width: None.
5. **Height Regulations:** Maximum structure height: 75 feet.
6. **Yard Regulations:**
 - Minimum front yard: None.
 - Minimum side yard: 10 feet when adjacent to a residential district; otherwise none.
 - Minimum rear yard: 20 feet when adjacent to a residential district; otherwise, none.
7. **Use Limitations:**
 - A. No outdoor storage, except the display of merchandise for sale to the public, shall be permitted.
 - B. Exterior lighting fixtures shall be shaded so that no direct light is cast upon any residential property and so that no glare is visible to any traffic on any public street.
 - C. Properties with contaminant concentrations in soil above the Kansas Department of Health and Environment (KDHE) risk-based standards for residential use but lower than the KDHE risk-based standards for non-residential use must remain zoned a non-residential (business or industrial), and daycare and school uses shall not be permitted.

“I-1” INDUSTRIAL - LIGHT DISTRICT

1. **Intent:** The intent of the district is to permit industrial uses that are not obnoxious due to appearance, noise, dust, or odor; that do not require intensive land coverage; and that can be compatibly developed with adjacent districts.
2. **Permitted Uses:** Generally, light manufacturing, wholesaling, trucking and warehousing uses. For a specific listing of permitted uses, see Appendix “A” of these regulations.
3. **Conditional Uses:** The listing of conditional uses is set out in Appendix “A” of these regulations.
4. **Intensity of Use Regulations:**
 - Minimum lot area: 6,000 square feet.
 - Minimum lot width: 50 feet.
5. **Height Regulations:** Maximum height of structure: 45 feet.
6. **Yard Regulations:** Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:
 - Front Yard: 25 feet.
 - Side Yard: 5 feet.
 - Rear Yard: 20 feet.
7. **Use Limitations:**
 - A. All operations and activities shall be conducted within a building or buildings. Storage may be maintained outside said building or buildings provided the view of said storage area is properly screened from adjacent streets and residential areas.
 - B. A solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet, high and having a density of not less than seventy (70) percent per square foot shall be provided adjacent to an adjoining residential district unless the adjacent residential district and the industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the “I-1” District.
 - C. No building shall be used for residential purposes except that a watchman may reside on the premises.

“I-2” INDUSTRIAL - HEAVY DISTRICT

1. **Intent:** The “I-2” Heavy Industrial District is intended for the purpose of allowing basic or primary industries which are generally not compatible with residential and/or commercial activity. Certain extremely obnoxious or hazardous uses will require special permission to locate in this district.
2. **Permitted Uses:** Generally, manufacturing, storage, wholesaling, transportation and repair uses. For a specific listing of permitted uses, see Appendix “A” of these regulations.
3. **Conditional Uses:** The listing of conditional uses is set out in Appendix “A” of these regulations.

4. **Intensity of Use Regulations:**

Minimum lot area: 10,000 square feet.

Minimum lot width: 80 feet.

5. **Height Regulations:** Maximum structure height: 45 feet.

6. **Yard Regulations:** Except as modified by the provisions of Article 5, minimum yard sizes shall be as follows:

Front Yard: 25 feet.

Side Yard: 7 feet.

Rear Yard: 20 feet.

7. **Use Limitations:**

- A. A solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet, high and having a density of not less than seventy (70) percent per square foot shall be provided adjacent to any adjoining residential district unless the adjacent residential district and the industrial district are separated by a street right-of-way. Said fence or wall shall be maintained in good condition by the owner or owners of the property in the “I-2” District.
- B. No building shall be used for residential purposes except that a watchman may reside on the premises.

ARTICLE 5

SUPPLEMENTARY DISTRICT REGULATIONS

1. **Height Regulations:** Chimneys, cooling towers, elevator headhouses, fire towers, grain elevators, monuments, stacks, stage towers, or scenery lofts, tanks, water towers ornamental towers, and spires, church steeples, radio and television towers, antennas or necessary mechanical appurtenances, usually required to be placed above the roof level and not intended for human occupancy, are not subject to the height limitations contained in the District Regulations. In all districts, one (1) additional foot of height above the specified height limitation shall be permitted for each foot of additional height limitation shall be permitted for each one foot of additional yard provided over the minimum requirement on all sides of the lot.
2. **Yard Regulations:**
 - A. **Minimum Yard Requirements:** The yard requirements heretofore established shall be adjusted in the following cases:
 - (1) Where the property fronts on a collector or an arterial street, as identified in the Cherryvale Comprehensive Plan, the required front yard shall be modified as follows:
 - a. Arterial Street: The front yard setback shall be measured from the centerline of the street and shall be equal to the requirement of the particular zoning district plus forty (40) feet.
 - b. Collector Street: The front yard setback shall be measured from the centerline of the street and shall be equal to the requirement of the particular zoning district plus forty (40) feet.
 - (2) Where the property fronts on two intersecting streets (a corner lot), such lot shall maintain a front yard setback on both streets, except in the following cases:
 - a. Where no lots within the same block front on one of the two intersecting streets, the side yard requirement along such street shall be fifteen (15) feet, subject to the provisions of paragraph a above.
 - b. The buildable width of a lot of record at the effective date of the ordinance shall not be reduced to less than 35 feet, except where necessary to provide a yard five feet in width along the side street.

- (3) Lots with two non-adjoining frontages (double frontage lots) shall maintain the required front yard setback along both frontages.
- (4) Where 50 percent or more of the frontage on one side of a street between two intersecting streets is developed with buildings that have observed a front yard greater than required, then:
 - a. Where a building is to be erected on a parcel of a land that is within 100 feet of existing buildings on both sides, the minimum front yard shall be a line drawn between the two closest front corners of adjacent buildings on the two sides, or;
 - b. Where a building is to be erected on a parcel of land that is within 100 feet of an existing building on one side only, such building may be erected as close to the street as the existing adjacent building.
- 3. **Accessory Buildings:** No accessory building shall be erected in any required front or side yard, and no detached accessory building shall be erected closer than five (5) feet to any other building. Accessory buildings may be located in the rear yard, but shall not be closer than five (5) feet to the rear lot line and shall not be closer to the side lot line than the required side yard setback of the district. No accessory building shall cover more than thirty (30) percent of the required rear yard.
- 4. **Number of Structures and Uses on a Zoning Lot:** Where a lot or tract is used for other than a single-family dwelling, more than one principal use and structure may be located upon the lot or tract, but only when the building or buildings conform to all requirements for the district in which the lot or tract is located.
- 5. **Sight Triangle:** On a corner lot in any district, except “B4”, development shall conform to the requirements of the sight triangle as defined by this regulation.
- 6. **Access to Business and Industrial Districts:** No land which is located in a residential district shall be used for a driveway, walkway or access to any land which is located in any business or industrial district.
- 7. **Temporary Uses Permitted:**
 - A. **Christmas Tree Sales:** Christmas tree sales in any business or industrial district for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the yard and setback requirements of these regulations provided that no trees shall be displayed within thirty (30) feet of the intersection of the curb line of any two streets.
 - B. **Contractor’s Office:** Contractor’s office and equipment sheds (containing no

sleeping or cooking accommodations) accessory to a construction project and to continue only during the duration of such project.

- C. **Real Estate Office:** Real estate office (containing no sleeping or cooking accommodations unless located in a model dwelling unit) incidental to a new housing development to continue only until the sale or lease of all dwelling units in development.
 - D. **Seasonal Sales:** Seasonal sale of farm produce grown on the premises, in an “A-1” District. Structures incidental to such sale need not comply with the applicable front yard requirements if the structures are removed or moved back of the required front yard setback line at the end of the season during which they are used.
 - E. **Carnivals and Circuses:** A carnival or circus, but only in an “A-1, B-2, B-3, B4, I-1, or I-2” District, and then only for a period that does not exceed three (3) weeks. Such use need not comply with the front yard requirements, provided that structures or equipment which might block the view of operators of motor vehicles on the public streets shall conform to the requirements of the sight triangle as defined by these regulations.
 - F. **Housing:** During construction of the principal residential structure, a basement, garage, camper or mobile home may be utilized for temporary housing for a period not to exceed twelve (12) months. The Zoning Administrator may extend the period six (6) additional months upon showing of good cause by the owner. Upon conclusion of the permitted time period or completion of the principal structure, whichever occurs first, the owner shall remove the temporary housing or make the necessary changes for the property to be in conformance with the regulations of the district in which the property is located.
 - G. **Garage or Porch Sales:** The sale of used or second-hand merchandise shall be permitted in any district providing that such use shall not exceed three (3) consecutive days in duration nor shall it occur more than four times each year at any particular location.
8. **Determination of Building Setback Line:** The building setback line shall be determined by measuring the horizontal distance between the property line and the vertical plane of the furthest architectural projection of the existing or proposed structure.
9. **Fences:** Except as otherwise specifically provided in other codes and regulations, the following regulations shall apply to the construction of fences:
- A. No fence shall be constructed which will constitute a traffic hazard.
 - B. No fence shall be constructed in such a manner or be of such design as to be

hazardous or dangerous to persons or animals.

- C. No person shall erect or maintain any fence which will materially damage the adjacent property by obstructing the view, shutting out the sunlight or hindering ventilation, or which fence shall adversely affect the public health, safety and welfare.
- D. No fence except fences erected upon public or parochial school grounds or in public parks and in public playgrounds shall be constructed of a height greater than four feet in the front yard or eight feet elsewhere; provided, however, that the Board of Zoning Appeals may, as a conditional use, authorize the construction of a fence higher than eight feet if the Board finds the public welfare is served.
- E. No fence shall be constructed without first obtaining a fence permit.

10. Home Occupations:

Home occupations shall be permitted in all zoning Districts of the City of Cherryvale. Home Occupations shall not be permitted without first obtaining formal approval from the City Council.

A. Application Process:

(1) All persons having a desire to initiate a Home Occupation must make application for approval with the Planning and Zoning Commission.

(2) All applications will include:

- a. Operator's name and contact information;
- b. Hours of operation;
- c. Type of occupation;
- d. List of special processes, equipment or supplies; and
- e. Site plan including parking and sign proposal

(3) Applications shall be submitted to the Building Inspector to insure clarity and compliance with established guidelines.

(4) Completed applications shall be reviewed by the Cherryvale Planning and Zoning Commission at their earliest convenience.

(5) The Planning and Zoning Commission shall then forward all applications to the Cherryvale City Council with a favorable or unfavorable recommendation.

(6) The Cherryvale City Council shall then approve or disapprove any

application submitted.

(7) An application for Home Occupation may be approved, upon a finding of the City Council that all of the conditions of this section have been met. The City Council shall affirm the following questions when reviewing an application:

- a. The approval of an application will not adversely affect the rights of adjacent property owners.
- b. The approval of an application will not adversely affect the public health, safety, morals, order, prosperity, or general welfare.
- c. The approval of an application will not be opposed to the general spirit and intent of the zoning regulations.

(8) In approving an application, the City Council may impose such conditions, safeguards and restrictions upon the Home Occupation as may be necessary to reduce or minimize any potentially injurious effect of such occupation upon other property in the neighborhood, and carry out the general purpose and intent of these regulations.

B. Restrictions and Limitations:

(1) The home occupation shall be incidental and subordinate to the principal residential use of the premises.

(2) All materials or equipment used in the home occupation shall be stored within an enclosed structure.

(3) No alteration of the exterior of the principal residential building, shall be made which changes the character thereof as a residence.

(4) Signs shall be permitted in all districts. No sign shall be larger than two (2) feet by three (3) feet, shall not be illuminated and shall not be placed closer to the front property line than one-half the distance of the front yard.

(5) No person shall be engaged in such home occupation other than a person occupying such dwelling unit as his residence.

(6) No equipment shall be utilized that creates a nuisance due to noise or electrical interference.

(7) Hours of operation shall not interfere with the character of the existing neighborhood.

(8) Parking for patrons of “Home Occupations” shall be with regard to local ordinances, and shall not create a burden to the community.

11. **Area Requirements:** In no case shall any structure be located on a lot less than two acres in area if it is not connected to a public sewer system.

ARTICLE 6

OFF-STREET PARKING AND LOADING REGULATIONS

1. **Applicability:** Off-street parking and loading space, as required in this article, shall be provided for all new buildings and structures or additions thereto. Off-street parking and loading space shall be required for any existing building or structure which is altered in any manner so as to enlarge or increase capacity by adding or creating dwelling units, guest rooms, floor area or seats. Existing parking area previously required shall not be used to satisfy required off-street parking for any new structures or additions to existing buildings, structures, or uses of land. Such existing parking space shall be maintained and shall not be reduced so long as the main building, structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this article. Except that no off-street parking or loading space shall be required for any use located in the “B-4” Business - Primary District.
2. **General Provisions:**
 - A. **Utilization:** Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses.
 - B. **Residential Districts:** Off-street parking shall be provided in all residential districts.
 - C. **Accessory Use:** Off-street parking shall be considered as an accessory use of the use for which the parking is provided. Parking not located on the same tract on which the main use is located must be located within the zoning district in which parking or storage lots are permitted as a main use; or be located in accordance with the provisions of this article relating to off-street parking exceptions. In no instance shall off-street parking required by this article be located more than 300 feet (as measured along lines of public access) from the use which it serves.
 - B. **Repair Service:** No motor vehicle repair work or service of any kind shall be permitted in association with any off-street parking facilities, with the exception of 24 hour emergency repair.
 - E. **Computation:** When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of $\frac{1}{2}$ or less may be disregarded, and a fraction in excess of $\frac{1}{2}$ shall be counted as one parking space.
 - F. **Mixed Uses:** When a building or development contains mixed uses, the off-street

parking requirements shall be calculated for each individual use and the total parking requirement shall be the sum of individual parking requirements.

3. **Layout and Design Requirements:**

- A. **Area:** A required off-street parking space shall be at least 8 feet 6 inches in width and at least 19 feet in length, exclusive of access drives or aisles, ramps, and columns.
- B. **Access:** Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
- C. **Design:** Off-street parking spaces shall comply with the design standards relating to curb length, stall depth, driveway width, island width, barriers, and ingress and egress as contained in the Off-Street Parking Standards of this article.
- D. **Surfacing:** All open off-street parking and loading areas shall be graded and paved or otherwise improved with an all-weather material.
- E. **Lighting:** Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with the residential use.

3. **Required Spaces:** Off-street parking spaces shall be provided as follows:

A. **Dwelling and Lodging Uses:**

- (1) Boarding or rooming houses: One parking space per each three sleeping rooms.
- (2) Dormitories, fraternities, sororities: Two parking spaces for each three occupants based on the maximum design capacity of the building.
- (3) Hotels and motels: One space per each rental unit plus one space per each two employees in the largest working shift and such spaces as are required for restaurants, assembly rooms, and other affiliated facilities provided.
- (4) Mobile home parks: Two parking spaces per each mobile home.
- (5) Nursing homes, rest homes, etc.: One parking space per each five beds based on the designed maximum capacity of the building, plus one parking space for each employee.
- (6) Single-family: Two spaces per dwelling unit

- (7) Two-family and multiple-family: Two spaces per dwelling unit. Two family and multiple-family dwelling units designed specifically for the elderly, one space per two dwelling units.

B. Business, Commercial, and Industrial Uses:

- (1) Automobile, truck, recreational vehicle and mobile home sales and rental lots: One parking space for each 3,000 square feet of open sales lot area devoted to the sale, display and rental of said vehicles, plus one parking space for each employee.
- (2) Automobile salvage yards: One parking space for each employee, plus one parking space for each 10,000 square feet of storage area.
- (3) Financial, business, and professional offices: One parking space for each 300 square feet of gross floor area.
- (4) Bowling alleys: Four parking spaces for each lane.
- (5) Cartage, express, parcel delivery and freight terminal establishments: One parking space for each two employees in the largest working shift in a 24 hour period, plus one parking space for each vehicle maintained on the premises.
- (6) Automobile wash: Three holding spaces for each car washing stall plus two driving spaces for each car washing stall.
- (7) Funeral homes and mortuaries: One parking space for each four seats based upon the designed maximum capacity of the parlor, plus one additional parking space for each employee and each vehicle maintained on the premises.
- (8) Furniture and appliance stores, household equipment or furniture repair shop: One parking space for each 400 square feet of floor area.
- (9) Manufacturing, production, processing, assembly, disassembly, cleaning, servicing, testing or repairing of goods, materials or products: One or three employees based upon the largest working shift in any 24-hour time period.
- (10) Medical and dental clinics or offices: One parking space for each 100 square feet of gross floor area.
- (11) Restaurants, private clubs and taverns: One parking space for 2.5 seats based on the maximum designed seating capacity; provided, however, that

drive-in restaurants shall have a minimum of at least ten parking, spaces.

- (12) Retail stores and shops: One space per 200 square feet of floor area.
- (13) Service stations: One parking space for each employee plus two spaces for each service bay.
- (14) Theaters, auditoriums, and places of assembly with fixed seats: One space for each 3.5 seats.
- (15) Theaters, auditoriums, and places of assembly without fixed seats: One parking space for each four people, based upon the designed maximum capacity of the building.
- (16) Warehouse, storage and wholesale establishments: One parking space for each two employees based upon the largest working shift in any 2 hour period.
- (17) All other business and commercial establishments not specified above: One parking space for each 300 square feet of floor area.

C. Other Uses:

- (1) Churches: One parking space for each six seats based upon the maximum designed seating capacity, including choir lofts.
- (2) Elementary, junior high and equivalent parochial and private schools: Two spaces for each classroom.
- (3) High schools, colleges, universities and other similar public or private institutions of higher learning: Eight parking spaces for each classroom, plus one space for each two employees.
- (4) Hospitals: One parking space for every four beds, plus one parking space for each resident or staff doctor plus one space for each two employees based on the largest working shift in any 24-hour period.
- (5) Laundromats: One space for each two washing machines.
- (6) Nursery schools and day care centers, public or private: One parking space for each employee.
- (7) Fraternal associations and union headquarters: One parking space for each three seats based upon the design maximum seating capacity.

- (8) Swimming pools and clubs: One parking spaces for each 50 square feet of water area.
- (9) Trade and commercial schools: One parking space for each three students and employees.

5. **Conditional Uses:**

- A. **District Permitted:** In order to provide off-street parking areas, the Board of Zoning Appeals may, after public notice and hearing, grant as a conditional use the establishment of parking areas in any zoning district under the provisions further set forth in this section.
- B. **Location:** Parking provided under this section must be within 300 feet (along lines of public access) from the boundary of the use for which the parking is provided.
- C. **Use:** The parking area shall be used for passenger vehicles only, and in no case shall it be used for sales, repair work, storage, dismantling or servicing of any vehicles, equipment, materials, or supplies. Only such signs as are necessary for the proper operation of the parking lot shall be permitted.

6. **Loading and Unloading Regulations:** Loading and unloading space shall be provided off-street and on the same premises with every building, structure or part thereof, thereafter erected, established or enlarged and occupied for goods display, retail operation, department store, market, hotel, mortuary, laundry, dry cleaning, office uses or warehouses, manufacturing or other uses, involving the receipt or distribution of materials or merchandise by motor vehicles. The loading and unloading space or spaces shall be so located to avoid undue interference with public use of streets, alleys and walkways.

A. **Spaces Required:**

- (1) For all uses in the “B-2” and “B-3” Business Districts, loading facilities shall be provided in accordance with the following table:

<u>Gross Floor Area of Establishments in Thousands of Sq. Ft.</u>	<u>Required Number and Size of Loading Berths</u>
1 - 10	1- (10'x25')
10 - 25	2 - (10' x 25' each)
25 - 40	2 - (10' x 70' each)
40-100	3 - (10' x 70' each)

- (2) For all uses in the “I-1” and “I-2” Districts, loading facilities shall be

provided in accordance with the following table:

<u>Gross Floor Area of Establishments in Thousands of Sq. Ft.</u>	<u>Required Number and Size of Loading Berths</u>
1 - 10	1 - (10' x 25')
10- 40	1 - (10' x 70')
40 -100	2 - (10' x 70' each)

- (3) For each additional 100,000 square feet of gross floor area or any fraction thereof over 100,000 square feet of gross floor area, one additional berth shall be provided. Each such additional berth shall be at least 10 feet in width by 60 feet in length.

Off Street Parking Standards

90° Perimeter & Island Parking

Off Street Parking Standards

60° Perimeter & Island Parking

ARTICLE 7

SIGN REGULATIONS

1. **Applicability:** Any sign shall, by definition, be a structure. No land or building or structure shall be used for sign purposes except as specified herein. All signs legally existing at the time of passage of these regulations may remain in use under the conditions of legal nonconformance. Signs in legal nonconformance shall not be enlarged, moved, lighted, or reconstructed; however, the change of the advertising display shall not be restricted except as previously stated. After the effective date of this regulation, no sign shall be erected, enlarged, constructed or otherwise installed without first obtaining a sign permit, and a sign permit shall be legally issued only when in compliance with this sign regulation. All signs shall be constructed in such a manner and of such material that they shall be safe and substantial.
2. **Classification of Signs:**
 - A. **Functional Types:**
 - (1) **Advertising Sign:** A sign which directs the attention of the public to any goods, merchandise, property, business, service, entertainment or amusement conducted or produced which is bought or sold, furnished, offered or dealt in elsewhere than on the premises where such sign is located or to which it is affixed.
 - (2) **Bulletin Board Sign:** A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names or persons connected with it, and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
 - (3) **Business Sign:** A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.
 - (4) **Construction Sign:** A temporary sign indicating the names of the architects, engineers, landscape architects, contractors and similar artisans involved in the design and construction of a structure, complex or project only during the construction period and only on the premises on which the construction is taking place.
 - (5) **Identification Sign:** A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily-recognized symbol.

- (6) Name Plate Sign: A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located and, where applicable, a professional status.
- (7) Real Estate Sign: A sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof on which the sign is located.

B. Structure Types:

- (1) Awning, Canopy or Marquee Sign: A sign that is mounted on, painted on, or attached to, an awning, canopy or marquee. No such signs shall project above, below or beyond the awning, canopy or marquee
- (2) Ground Sign: Any sign placed upon, or supported by, the ground independent of the principal building or structure on the property, where the bottom edge of the sign is less than six (6) feet above the ground.
- (3) Pole sign: Any sign placed upon, or supported by, the ground independent of the principal building or structure on the property where the bottom edge of the sign is six (6) feet or more above the ground level.
- (4) Projecting Sign: A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.
- (5) Wall Sign: A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building.
- (6) Roof Sign: A sign totally supported on the roof of a structure. Roof signs shall not project more than 12 inches beyond the face of the building.

3. General Standards:

- A. **Gross Area of Sign**: Gross area shall include the entire area within a single continuous perimeter enclosing the extreme limits of the sign, exclusive of the base on which it is mounted or from which it is suspended. If more than one side of a sign is utilized as a sign, then only the largest side shall be computed and shall be counted as a portion of the gross area. On lots where more than one sign is located, the total gross area of all the signs shall not exceed the maximum gross area permitted by this regulation.

For computing the gross area of any wall sign which consists of letters mounted

or painted on a wall, the area shall be deemed to be the area of the smallest rectangular figure which can encompass all of the letters

- B. **Sign Height:** Sign height shall be measured from the ground elevation at the base of the sign to the highest element of the sign.
- C. **Illuminated Signs:** A sign designed to give forth artificial light or designed to reflect light derived from any source.
- E. **Flashing or Moving Signs:** Any illuminated sign on which the artificial light is not constant in intensity and color at all times. For the purpose of this regulation~ any revolving, rotating, moving, animated, signs with moving lights or signs which create the illusion of movement shall be considered as a flashing sign.
 - (1) Flashing signs shall not be permitted in districts zoned R-1.
 - (2) A sign which displays the current time and/or temperature by use of intermittent lighting shall not be deemed a flashing sign if the lighting changes are limited to text indicating time, temperature or other public messages. Such sign shall not in any case exceed 32 square feet in area.
- F. **Accessway or Window:** No sign shall block any required accessway or window.
- G. **Signs or Trees or Utility Poles:** No sign shall be attached to a tree or utility pole whether on public or private property.
- H. **Traffic Safety:**
 - (1) No sign shall be maintained at any location where by reason of its position, size, shape or color, it may obstruct, impair, obscure, interfere with the view of, or be confused with any traffic or railroad control sign, signal or device, where it may interfere with, mislead, or confuse traffic.
 - (2) Any sign located within three (3) feet of a driveway or within a parking area shall have its lowest elevation at least ten (10) feet above the curb level; however, in no event shall any sign be placed so as to project over any public right-of-way except in the "B-4" district.
 - (3) Under no circumstances shall any sign be placed in the sight triangle as defined by this regulation.
- I. **Lineal Street Frontage:** In those districts where gross sign area is allocated based on lineal street frontage and the tract or parcel is adjacent to more than one street, the lineal street frontage shall be computed as follows:
 - (1) For those tracts or parcels located on major streets as designated in the

Major Street Plan of the Comprehensive Plan, the lineal street frontage shall be the distance of that property line abutting the major street.

- (2) For those tracts or parcels not located on a major street, the lineal street frontage shall be one-half the sum of all the street frontages.

4. **Exemptions:**

A. **Total Exemptions:** The following signs shall be exempt from the requirements of this article, except for the provisions of Sections 3.1 through 3.8 above:

- (1) Flags or emblems of a governmental or of a political, civic, philanthropic, educational or religious organization, displayed on private property.
- (2) Signs of a duly constituted governmental body, including traffic or similar regulatory signs, legal notices, warnings at railroad crossings and other instructional or regulatory signs having to do with health, safety, parking, swimming, dumping, etc.
- (3) Memorial signs and tables displayed on public or private property.
- (4) Small signs, not exceeding three (3) square feet in area, displayed on private property for the convenience of the public, including signs to identify entrance and exist drives, parking areas, one-way drives, restrooms, freight entrances, and other similar signs.
- (5) Scoreboards in athletic stadiums.
- (6) Political campaign signs, not exceeding four square feet in area, displayed during no more than a four-week period preceding and a one-week period following an election.
- (7) Temporary signs for the sale of household goods at a residence (garage sales) for a period not to exceed three (3) days.

B. **Exemptions from Sign Permit:** The following signs are exempt from the sign permit section of this article, but shall comply with all of the other regulations imposed by this article:

- (1) Name plate signs not exceeding two (2) square feet in gross area accessory to a single-family or two-family dwelling.
- (2) Bulletin board signs not exceeding 100 square feet in gross area accessory

to a church, school or public or non-profit institution.

- (3) Business signs when located on property used for agricultural purposes and pertaining to the sale of agricultural products produced on the premises.
- (4) Real estate signs not exceeding eight (8) square feet in area.
- (5) Construction signs not exceeding eight (8) square feet in area.

5. **District Regulations:**

A. **“A-1 Agricultural District:**

(1) **Functional Types Permitted:**

- a. Advertising signs.
- b. Bulletin board signs.
- c. Business signs, pertaining only to the sale of agricultural products produced on the premises and home occupations.
- d. Construction signs.
- e. Identification signs.
- f. Name plate signs.
- g. Real estate signs.

(2) **Structural Types Permitted:**

- a. Pole signs.
- b. Wall signs.
- c. Ground signs.

(3) **Number of Signs Permitted:** One sign per 660 feet of frontage.

(4) **Maximum Gross Area:**

- a. Advertising signs: 700 square feet per sign.

- b. Bulletin board and identification signs: 24 square feet
- c. Business signs - home occupations: 4 square feet; agricultural: 20 square feet.
- d. Construction signs: 20 square feet
- e. Identification signs: 4 square feet.
- f. Name plate signs: 4 square feet.
- g. Real estate signs: 12 square feet.

(5) Maximum Height: 50 feet.

(6) Required Setbacks: None, except that advertising signs shall observe and setback required by state or federal law.

(7) Illumination: Advertising signs and bulletin board and identification signs that do not exceed 12 square feet on one face for churches, hospitals. Police stations, fire stations and other similar public facilities may be illuminated.

B. “R-1” Residential - Low Density, “R-2” Residential - Medium Density, “R-3” Residential - High Density, “R-4 Mobile Home Park:

(1) Functional Types Permitted:

- a. Business signs pertaining to a home occupation and subject to the sign requirements of the home occupation section of this regulation.
- b. Bulletin board signs.
- c. Construction signs.
- d. Identification signs.
- e. Name plate signs.
- f. Real estate signs.

(2) Structural Types Permitted:

- a. Ground signs.
- b. Wall signs.

- (3) Number of Signs Permitted: One sign per zoning lot.
- (4) Maximum Gross Area:
 - a. Business signs - home occupations: 4 square feet.
 - b. Bulletin board and identification signs: 50 square feet.
 - c. Construction signs: 20 square feet.
 - d. Name plate signs: 4 square feet.
 - e. Real estate signs: 6 square feet, provided that one sign not more than 100 square feet in area announcing the sale of lots and/or houses in a subdivision may be located on said development. Said sign shall be removed at the end of three years or when seventy five (75) percent of the lots have been sold, whichever occurs sooner.
- (5) Maximum Height: 15 feet.
- (6) Required Setback: No sign shall be placed closer to the front property line than one-half the distance of the front yard.
- (7) Illumination: Bulletin board signs may be indirectly illuminated with incandescent or fluorescent lighting.

C. “B-1” Business-Office, “B-2” Business-Highway Service, “B-3” Business-General, and “B-4” Business-Primary Districts:

- (1) Functional Types Permitted:
 - a. Advertising signs.
 - b. Bulletin board signs.
 - c. Business signs.
 - d. Construction signs.
 - e. Identification signs.
 - f. Name plate signs.

- g. Real estate signs.

(2) Structural Types Permitted:

- a. Awning, canopy or marquee signs.
- b. Ground signs.
- c. Pole signs.
- d. Projecting signs.
- e. Wall signs.

(3) Number of Signs Permitted:

- a. Awning, canopy or marquee signs and wall signs: No limitations.
- b. Ground signs and pole signs: Two per zoning lot.
- c. Projecting and advertising signs: Two per zoning lot.
- d. Advertising signs: One per zoning lot in the “B-2” and “B-3” Districts, none in the “B-1” and “B-4” Districts.

(4) Maximum Gross Surface Area: 4 square feet for each lineal foot of street frontage, provided no single sign shall exceed a gross surface area of 300 square feet.

(5) Maximum Height: All signs: 40 feet.

(6) Required Setback: None except that advertising signs shall maintain the same setback that is required for principal structures.

(7) Illumination: Illuminated signs shall be permitted.

D. “I-1” Light Industrial and “I-2” Heavy Industrial District:

(1) Functional Types Permitted:

- a. Advertising signs.
- b. Bulletin board signs.

- c. Business signs.
- d. Construction signs.
- e. Identification signs.
- f. Name plate signs.
- g. Real estate signs.

(2) Structural Types Permitted:

- a. Awning, canopy or marquee signs.
- b. Ground signs.
- c. Pole signs.
- d. Projecting signs.
- e. Wall signs.
- f. Roof signs.

(3) Number of Signs Permitted: Two per zoning lot.

(4) Maximum Gross Surface Area: 4 square feet per lineal foot of street, frontage, provided no single sign exceeds a gross surface area of 300 square feet.

(5) Maximum Height:

- a. Roof signs: 20 feet above the highest point of the structure on which the sign is located.
- b. All other signs: 50 feet.

(6) Required Setback: None, except that advertising signs shall maintain the same setback that is required for principal structures.

(7) Illumination: Illuminated signs shall be permitted.

ARTICLE 8

NONCONFORMITIES

1. **General:** Nonconformities are of three types: nonconforming lots of record, nonconforming structures and nonconforming uses. A definition of each type is as follows:
 - A. **Nonconforming Lot of Record:** An unimproved lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the adoption of these regulations and neither said lot nor parcel complies with the lot width or area requirements for any permitted use in the district in which it is located.
 - B. **Nonconforming Structure:** An existing structure which does not comply with the height or yard requirements which are applicable to new structures in the zoning district in which it is located.
 - C. **Nonconforming Use:** An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.
2. **Nonconforming Lots of Record:** The Zoning Administrator shall issue a building permit for any nonconforming lot of record provided that:
 - A. Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations, and
 - B. Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by the applicable zoning regulations, and
 - C. Said lot can meet all yard regulations for the district in which it is located, and
 - D. Said lot can meet minimum standards for sewage treatment as required by the County Health Office.
3. **Nonconforming Structures:**
 - A. **Authority to Continue:** Any structure which is devoted to a use which is permitted in the zoning district in which it is located, but which is located on a lot which does not comply with the applicable yard and height regulations, may be

continued, so long as it remains otherwise lawful.

- B. **Enlargement, Repair, Alterations:** Any nonconforming structure may be enlarged, maintained, repaired or remodeled; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.
- C. **Damage or Destruction:** In the event that any nonconforming structure is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its appraised value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of fifty (50) percent or less, no repairs or restoration shall be made unless a building permit is obtained and restoration is actually begun within one (1) year after the date of such partial destruction and is diligently pursued to completion.
- D. **Moving:** No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

4. **Nonconforming Uses:**

- A. **Authority to Continue:** Any lawfully existing nonconforming use or part or all of a structure or any lawfully existing nonconforming use of land, may be continued, so long as otherwise lawful.
- B. **Ordinary Repair and Maintenance:**
 - (1) Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
 - (2) Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such structure to be unsafe and orders its restoration to a safe condition.
- C. **Extension:** A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. Such prohibited activities shall include, without being limited to:

- (1) Extension of such use to any structure or land area other than that occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming).
 - (2) Extension of such use within a building or other structure to any portion of the floor area that was not occupied by such nonconforming use on the effective date of these regulations (or on the effective date of subsequent amendments hereto that cause such use to become nonconforming); provided, however, that such use may be extended throughout any part of such building or other structure that was lawfully and manifestly designed or arranged for such use on such effective date.
- D. **Enlargement:** No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- E. **Damage or Destruction:** In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged or destroyed, by any means, to the extent of more than fifty (50) percent of its appraised value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is fifty (50) percent or less, no repairs or restoration shall be made unless a building permit is obtained, and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- F. **Moving:** No structure that is devoted in whole or in part to a nonconforming use and no conforming use of land shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning districts in which it is located after being so moved.
- G. **Change in Use:** If no structural alterations are made, any nonconforming use of a structure, or structure and premises, may as a conditional use be changed to another nonconforming use provided that the Board of Zoning Appeals either by general rule or by making findings in the specific case, shall find that the proposed use is equally appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the Board of Zoning Appeals may require appropriate conditions and safeguards in accordance with Section 9.2.3. Once a change is made to a more appropriate use, the use shall not be returned to the original use or a less appropriate use.
- H. **Abandonment or Discontinuance:** When a nonconforming use is discontinued

or abandoned for a period of twelve (12) consecutive months, such use shall not thereafter be reestablished or resumed, and any subsequent use or occupancy of such land shall comply with the regulations of the zoning district in which such land is located.

- I. **Nonconforming Accessory Uses:** No use which is accessory to a principal non conforming use shall continue after such principal use shall cease or terminate.
- J. **Nonconforming Residential Uses:** Notwithstanding the provisions of Sections 8.4.3. and 8.4.4., any structure which is devoted to a residential use and which is located in a business or industrial district, may be remodeled, extended, expanded, and enlarged; provided that after any such remodeling, expansion or enlargement, such structure shall not be used to accommodate a greater number of dwelling or lodging units than such structure accommodated prior to any such work.

4. **Status of Conditional Uses:**

- A. **Status of Existing Conditional Uses:** Where a use exists at the effective date of these regulations and is permitted by these regulations only as a conditional use in the zoning district in which it is located, such use shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use in such zoning district. Such conditional use shall not be enlarged or expanded unless a conditional use application is approved as set out in Article 9 of these regulations.
- B. **Status of Future Conditional Uses:** Any use for which a conditional use permit has been issued, as provided in these regulations, shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use.

ARTICLE 9

BOARD ZONING APPEALS

1. **Formation:** The word “Board” when used in this article shall mean Board of Zoning Appeals. The Board shall adopt rules of procedure as may be necessary and proper to govern its own proceedings; such rules shall not be in conflict with other laws, regulations or ordinances. Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The Board shall keep minutes of its proceedings, showing the description of evidence presented, the findings of fact by the Board, the decision of the Board, and the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the City Clerk and shall be public record.
4. **Powers and Jurisdiction:** The Board shall have the following powers and jurisdictions:
 - A. **Appeals:** To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by the Zoning Administrator in the enforcement of these regulations.
 - (1) Appeals to the Board may be taken by the person aggrieved, or by any officer, department, or Bureau of the government affected by any decision of the Zoning Administrator. Such appeal shall be filed with the Zoning Administrator within a reasonable time, as shall be prescribed. The Zoning Administrator shall forthwith transmit to the Secretary of the Board all papers constituting the record upon which the action appealed from is taken.
 - (2) An appeal stays all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board, after the Notice of Appeal shall have been filed with him, that by reason of facts stated in the certificate, a stay would, in his opinion, cause imminent peril to life or property.

In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Board, or by a court of record on application or notice to the Zoning Administrator.
 - B. **Variances:** To authorize in specific cases a variance from the specific terms of these regulations which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in unnecessary hardship, provided the spirit of these regulations shall be observed, public safety and welfare secured,

and substantial Justice done. Such variance shall not permit any use not permitted by the zoning regulations in such district.

- (1) The applicant must show that his property was acquired in good faith and where by reason of exceptional narrowness, shallowness or shape of this specific piece of property at the time of the effective date of the District Zoning Regulations, or where by reasons of exceptional topographical conditions or other extraordinary or exceptional circumstances that the strict application of the terms of the zoning regulations actually prohibit the use of this property in the manner similar to that of other property in the zoning district where it is located.
- (2) Variances from these regulations may be granted only in the following instances:
 - a. To vary the applicable lot area and width, height and yard regulations.
 - b. To vary the applicable off-street parking and off-street loading requirements.
- (3) A request for a variance may be granted, upon a finding of the board that all of the following conditions have been met. The Board shall make a determination on each condition, and the finding shall be entered in the record.
 - a. The variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or applicant.
 - b. The granting of the permit for the variance will not adversely affect the rights of adjacent property owners represented in the application.
 - c. The strict application of the provisions of the zoning regulations of which the variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
 - d. The variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.
 - e. The granting of the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

- (4) In granting a variance, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the variance as may be necessary to reduce or minimize any potentially injurious effect of such variance upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

C. **Conditional Uses:** To grant as an exception to the provisions of these zoning regulations, the establishment of those conditional uses that are expressly authorized to be permitted in a particular zoning district or districts. In no event shall exceptions to the provisions of the zoning regulations be granted where the conditional use or exception contemplated is not specifically listed as a conditional use in the zoning regulations. Further, under no conditions shall the Board have the power to grant an exception when the conditions of this exception, as established by these regulations, are not found to be present.

- (1) The Board shall not grant a conditional use permit unless it shall, in each specific case, make specific written findings of fact directly based upon the particular evidence presented to it, that support conclusions that:
 - a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations.
 - b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public.
 - c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located.
 - d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate neighborhood so as to prevent development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.

- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.
 - f. Adequate utility, drainage, and other such necessary facilities have been or will be provided.
 - g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
 - h. Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises.
 - i. The proposed development is consistent with the moral standards of the community.
- (2) In addition to the general conditions listed above which apply to all conditional uses, the Board shall not grant a conditional use permit to the uses listed below unless the specific conditions applicable to that use are met.
- a. Day care centers for more than four (4) children or adults:
 - 1. Shall provide at least one hundred (100) square feet of open space per child. This open space shall be completely enclosed by a solid or semi-solid fence or wall at least six (6) feet, but not more than eight (8) feet, high and having a density of not less than eighty (80) percent.
 - 2. Shall provide a loading zone capable of accommodating at least two (2) automobiles for picking-up or dropping-off passengers.
 - 3. Shall conform with all requirements of the State of Kansas.
 - b. Feedlots:
 - 1. Manure shall be removed or disposed of by spraying or

spreading on land followed by discing or plowing; grinding or dehydrating in properly designed dehydrators; or stockpiling in a compost plant in an isolated area in such a manner as not to create a water pollution problem.

2. Chemical sprays and poisons intended for insect and rodent control shall be used in accordance with the recommendations of the manufacturer.
 3. All ground surfaces within pens shall be graded and compacted so as to ensure positive drainage.
 4. Surface runoff shall be so controlled that no appreciable amount of soil or manure is carried into any roadway ditch or drainageway.
- b. Auto wrecking yards, junk yards, salvage yards, and scrap processing yards:
1. Shall be located at least 300 feet from a residential district zone.
 2. The operation shall be conducted wholly within a noncombustible building or within an area completely enclosed by a fence or wall at least eight (8) feet high. The fence or wall shall be of uniform height, color and texture, and shall be maintained in good condition by the property owner. No scrap, junk or other salvaged materials shall be piled to exceed the height of this wall or fence.
 3. No junk or salvaged material shall be loaded, unloaded or store, either temporarily or permanently outside the enclosing building, fence or wall.
- d. Funeral, mortuary or crematory services shall be located on a collector or arterial street as shown in the Comprehensive Plan.
- e. Wind-powered generating systems shall conform to the following standards:
1. No tower or propeller shall be located so as to be within a distance equal to its height of any structure, power line or antenna located on any other piece of property.
 2. The height of the tower and propeller shall not exceed by more than fifty (50) percent the height limitation of the district in which it is located and the bottom tip of any

propeller shall be at least ten (10) feet above any accessible pedestrian area.

3. The system and its component parts shall be totally surrounded by a fence at least six (6) feet and not more than eight (8) feet in height unless otherwise physically inaccessible to the public.
 5. The system shall not cause interference to the radio and television reception on adjacent property.
 6. The system shall contain a breaking device for winds in excess of 40 miles per hour.
 6. The system shall be approved for safety by a testing laboratory and shall be covered by a homeowners or business insurance policy.
 7. The minimum lot width shall not be less than twenty (20) feet.
- f. Single-family detached dwellings with one side yard equal to one foot or less (zero lot-line dwellings) shall be conditionally permitted in all districts and conform to the following standards:
1. Zero lot-line dwellings shall meet all front and rear yard requirements.
 2. For any zero lot-line dwelling, the lot-line wall (defined as that wall of the dwelling on the side lot line) shall have no windows, doors, vents or other openings nor shall any window on any wall face that side lot line.
 3. The side yard requirement for a zero lot-line dwelling on the side opposite the lot-line wall shall be twice the normal side yard requirement of the zone or twelve (12) feet, whichever is smaller.
 4. No two zero lot-line dwellings shall have their lot-line wall along the same side lot line, nor shall any zero lot-line dwelling have its lot-line wall adjacent to any lot or tract of land not developed for zero lot-line dwellings.
 5. No lot line wall shall be located on a side lot-line adjacent

to any public right-of-way.

6. The required yard setbacks for each zero lot-line lot shall be either shown on the subdivision plat or recorded as a restrictive covenant on the property deed.
 7. The minimum lot width shall not be less than forty (40) feet.
- g. Mobile homes on a permanent foundation shall conform to the following minimum standards:
1. The minimum width shall be 22 feet and the minimum length shall be 50 feet.
 2. All running gear and suspension components not required for structural soundness or safety shall be removed.
 3. The mobile homes shall be permanently mounted on a continuous perimeter foundation which extends below grade a minimum of 24 inches.
 4. All utility connections shall meet the requirements of all applicable codes and ordinances.
- h. Travel trailer camps shall be permitted only in A-1, R-4 and B-2 Districts, subject to the following conditions.
1. The site selected for travel trailer camp areas shall be well drained and primarily designed to provide space for short term occupancy to the traveling public. Location of the site may not necessarily front on a major roadway or thoroughfare, but it shall be directly accessible to the major roadway by means of a private road or public road which it has frontage on. Short-term occupancy shall not exceed thirty (30) days, except as approved by the Zoning Administrator.
 2. Minimum tract size shall be two (2) acres and be in one (1) ownership.
 3. The maximum number of travel trailer spaces allowed within the permitted districts shall not be more than twenty (20) per acre. Consideration shall be given to whether the camp and the density level are designed accordingly. The densities of overnight use may be higher than destination

type since it primarily serves as a short stopping point while the destination type camp located at or near a scenic historical or outdoor recreational area provides for longer and extended stays of several days or weeks.

4. Minimum width of a trailer space shall be twenty-five (25) feet and it shall be so designed to provide space for parking both the trailer and towing vehicle off the roadway.

No trailer unit shall be closer than ten (10) feet to any other adjacent unit, structure or roadway and all spaces shall have direct access to the roadway. No unit shall be placed closer than thirty (30) feet to any of the development property lines and the ten (10) feet nearest the property line shall be permanently maintained as a sodded and/or landscaped area.

5. A central office or convenience establishment with an attendant shall be provided within the trailer camp to register guests and provides service and supervision to the camp for camps in excess of 5 acres.

6. The applicant for a travel trailer camp shall submit a development plan to the Board of Zoning Appeals for approval. Such plan shall contain the information as required below and any other information the Board reasonably shall deem necessary to fully evaluate the proposed development. The applicant shall submit the information on a sheet size not to exceed 24" x 36" dimensions as a proposed developed plan showing:

- (a) General layout of development with dimension sizes, number of spaces and related sanitation accommodations.
- (b) Parking area location, sizes and capacity.
- (c) Ingress and egress points for the project.
- (d) Use of structures.
- (e) General layout of typical travel trailer space showing size of space and proposed improvements.

- (f) Layout of roadway within the camp.
- (g) Net density of proposed project, expressed in terms of units per acre.
- (h) General landscaping plan indicating all new and retained plant material to be incorporated within the new development and layout of outdoor lighting system.
- (i) Plan and method of sewage disposal and water supply.
- (j) Location plan and number of proposed sanitary conveniences, including proposed toilets, washrooms, laundries and utility areas.
- (k) The development shall provide a general refuse storage area or areas which shall be provided with a paved concrete surface and shall be enclosed to screen it from view.

7. The travel trailer camps shall be planned and constructed in accordance with the minimum standards as established in this Section and as outlined below:

- (a) All parking areas and roadways shall be constructed and paved with a hard surface bituminous or concrete material.
- (b) All camps shall be provided with general outdoor lighting with a minimum of 0.3-foot candles of general illumination.
- (c) All yard areas and other open spaces not otherwise paved or occupied by structures shall be sodded and/or landscaped and shall be maintained.

(3) In granting a conditional use, the Board may impose such conditions, safeguards and restrictions upon the premises benefited by the conditional use as may be necessary to reduce or minimize any potentially injurious effect of such

conditional uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

- D. **Conditions of Determinations:** In exercising the foregoing powers, the Board, in conformity with the provisions of this act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions, and may issue or direct the issuance of a building permit.

A majority of the Board shall constitute a quorum for the transaction of business, and a concurring vote of a majority of the entire Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant upon any matter which it is required to pass under these regulations, or to affect any variation in such regulation.

3. **Applications:**

- A. The procedure for requesting a hearing before the Board shall be as follows:

- (1) All applications to the Board shall be in writing on forms provided by the Board.
- (2) All applications shall be accompanied by an ownership list, obtained from county records, listing the legal description and the name and address of the owners of all property located within 200 feet of the boundaries of the property included in the application.
- (3) The Board shall fix a reasonable time for the hearing of an application, and notice of the time, place and subject of each hearing shall be published in the official newspaper (as designated by the governing body at least twenty (20) days prior to the date fixed for the public hearing. A copy of the notice of public hearing shall be sent to each party of interest, each person on the ownership list, and each Planning Commission member.
- (4) An application shall be accompanied by a filing fee of twenty five dollars (\$25.00). A separate filing fee of \$25.00 shall be required for each request.

- B. In addition to the above requirements, certain applications require additional information as follows:

(1) **Appeals:**

- a. An application for an appeal shall be filed within sixty (60) days

after a ruling has been made by the Zoning Administrator.

- b. A copy of the order, requirement, decision or determination of the Zoning Administrator which the applicant believes to be in error shall be submitted.
- c. A clear and accurate written description of the proposed use, work or action in which the appeal is involved and a statement justifying the appellant's position.
- d. Where necessary, a plot plan, drawn to scale, in duplicate showing existing and proposed plans for the area in question shall be submitted.

(2) Variances:

- a. The applicant shall submit a statement, in writing, justifying the variance requested, indicating specifically the enforcement provisions of the zoning regulations from which the variance is requested, and outlining in detail the manner in which it is believed that this application will meet each of the five (5) conditions as set out in Section 9.2.2.3 of this article.
- b. The applicant shall submit a sketch, in duplicate, drawn to scale and showing the lot or lots included in the application; these structures existing thereon; and the structures contemplated necessitating the variance requested. All appropriate dimensions and any other information which would be helpful to the Board in consideration of the application should be included.

(3) Conditional Uses:

- a. The applicant shall submit a statement in writing justifying the conditional use applied for, and indicating under which Article and Section of the Zoning Regulations the Board of Zoning Appeals believes to have jurisdiction.
- b. The applicant shall prepare and submit in duplicate at the time of filing the application, a detailed plot plan drawn to scale, showing all existing and proposed structures, property lines with dimensions, parking spaces, points of ingress and egress, driveways, and any other information which would be helpful to the Board in consideration of the application.

4. **Performance:** In making any decision varying or modifying any provision of the zoning

regulations or in granting an exception to the district regulations, the Board shall impose such restrictions, terms, time limitations, landscaping, screening, and other appropriate safeguards as needed to protect adjoining property.

The Board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the Board, and shall be enforceable by or payable to the Governing Body in the sum actual to the cost of constructing the required improvements.

In lieu of the performance bond requirement, the Board may specify a time limit for the completion of such required improvements and, in the event the improvements are not completed within the specified time, the Board may declare the granting of the application null and void after reconsideration.

5. **Who May Appeal From the Board Decision:** Any person, persons, department of departments of the government, jointly or separately aggrieved by any decision of the Board may present to the District Court having jurisdiction, a petition, duly verified, stating that such decision is illegal in whole or in part, specifying the grounds of the illegality and asking for relief therefrom. Such petition shall be presented to the Court within thirty (30) days after the date of filing the decision of the Board in the office of the City Clerk.

ARTICLE 10

AMENDMENTS

1. **Amendments to Change Zoning District Boundaries.** The City Commission from time to time, may supplement, change or generally revise the boundaries or regulations contained in zoning regulations by amendment. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the amendment may be initiated by application of the owner of property affected. Any such amendment, if in accordance with the adopted comprehensive plan, shall be presumed to be reasonable.
2. **Public Hearing:** All such proposed amendments first shall be submitted to the Planning Commission for recommendation. The Planning Commission shall hold a public hearing thereon, shall cause an accurate written summary to be made of the proceedings, and shall give notice in like manner as that required for recommendations on the original proposed zoning regulations. Such notice shall fix the time and place for such hearing and contain a statement regarding the proposed changes in regulations or restrictions or in the boundary or classification of any zone or district. If such proposed amendment is not a general revision of the existing regulations and affects specific property, the property shall be designated by legal description or a general description sufficient to identify the property under consideration.
3. **Public Notice.** In addition to such publication notice, written notice of such proposed amendment shall be mailed at least 20 days before the hearing to all owners of record of lands located within at least 200 feet of the area proposed to be altered. If the City proposes a zoning amendment to property located adjacent to or outside the City's limits, the area of notification of the City's action shall be at least 1,000 feet in the unincorporated area. All notices shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission or the Governing Body. Such notice is sufficient to permit the Planning Commission to recommend amendments to zoning regulations which affect only a portion of the land described in the notice or which give all or any part of the land described a zoning classification of lesser change than that set forth in the notice. At any public hearing held to consider a proposed rezoning, an opportunity shall be granted to interested parties to be heard.
4. **Adoption.** The procedure for the consideration and adoption of a recommendation to amend zoning district boundaries shall be in the same manner as that required for the consideration and adoption of the original zoning regulations. A majority of the members of the Planning Commission present and voting at the hearing shall be required to recommend approval or denial of the amendment to the Governing Body. If the Planning

Commission fails to make a recommendation on a rezoning request, the Planning Commission shall be deemed to have made a recommendation of disapproval. When the Planning Commission submits a recommendation of approval or disapproval of such amendment and the reasons therefore, the Governing Body may: (1) Adopt such recommendation by ordinance; (2) Override the Planning Commission's recommendation by a 2/3 majority; vote of the membership of the Governing Body; or (3) return such recommendation to the Planning Commission with a statement specifying the basis for the Governing Body's failure to approve or disapprove.

If the Governing Body returns the Planning Commission's recommendation, the Planning Commission, after considering the same, may resubmit its original recommendation giving the reasons therefore or submit a new and amended recommendation. Upon the receipt of such recommendation, the Governing Body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendation by the respective ordinance or it need take no further action thereon. If the Planning Commission fails to deliver its recommendation to the Governing Body following the Planning Commission's next regular meeting after receipt of the Governing Body's report, the Governing Body shall consider such course of inaction on the part of the Planning Commission as a resubmission of the original recommendation and proceed accordingly. The proposed rezoning shall become effective upon publication of the respective adopting ordinance or resolution.

5. **Applications.** Any party desiring any change in zoning district boundaries or regulations contained in this Zoning Ordinance, as to any lot, tract or area of land, shall file with the City Clerk an application, and such application shall be accompanied by such data and information as prescribed in these Regulations.
6. **Filing Fee.** For the purpose of wholly or partially defraying the costs of the proceedings prescribed herein, including publication costs, the applicant, upon the filing of the application, shall pay to the City Clerk a fee in the amount of \$100.00. Promptly upon the filing of any such application, the City Clerk shall refer the application to the Planning Commission for study and recommendation and shall report to the Governing Body concerning the nature of the application and that said application has been referred to the Planning Commission.
7. **Adoption and Amendment of Comprehensive Plan, Zoning Ordinance, and Subdivision Regulations, and Certain Other Actions of the Planning Commission.** An affirmative vote of a majority of the entire membership of the Cherryvale Planning Commission shall be required for certain actions of the commission as prescribed by state law.
8. **Comprehensive Plan.** Upon the adoption or amendment of any such plan or part thereof by adoption of the appropriate resolution by the Planning Commission, a certified copy of the plan or part thereof, together with a written summary of the hearing thereon, shall be submitted to the Governing Body. No comprehensive plan shall be effective unless

approved by the City Commission of Cherryvale.

An attested copy of the comprehensive plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan.

9. **Public Facilities and Improvements.** Whenever the Planning Commission has adopted and certified the comprehensive plan for one or more major sections or functional subdivisions thereof, no public improvement, public facility or public utility of a type embraced within the recommendations of the comprehensive plan or portion thereof shall be constructed without first being submitted to and being approved by the Planning Commission as being in conformity with the plan. The Governing Body may override the plan and the recommendation of the Planning Commission. When the Planning Commission has reviewed a capital improvement program and found that specific public improvements, public facilities or utilities are consistent with the comprehensive plan, no further action is necessary.
10. **Findings of Fact.** In order to recommend, approve or disapprove a proposed zoning district amendment the Planning Commission shall make findings of fact to determine whether the application is found to be compatible with the following:
 - A. Character of the neighborhood.
 - B. Consistency with the comprehensive plan and ordinances of the City of Cherryvale.
 - C. Adequacy of public utilities and other needed public services.
 - D. Suitability of the uses to which the property has been restricted under its existing zoning.
 - E. Length of time property has remained vacant as zoned.
 - F. Compatibility of the proposed district classification with nearby properties.
 - G. The extent to which the zoning amendment may detrimentally affect nearby property.
 - H. Whether the proposed amendment provides a disproportionately great loss to the individual land owners nearby relative to the public gain.
11. **Protest.** Regardless of whether or not the Planning Commission approves or disapproves a zoning amendment, if a protest against such amendment is filed in the office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to said publication notice, signed by the owners of record of 20 percent or more of any real property proposed to be rezoned or by the owners of record of 20 percent or more of the total area required to be notified of the proposed rezoning, excluding public streets and

ways, located within or without the corporate limits of the City of Cherryvale, the ordinance adopting such amendment shall not be passed except by at least three-fourths (3/4) vote of the members of the Governing Body.

12. **Publication** .If the Governing Body approves an application, it shall adopt an ordinance to that effect, but said request shall not become effective until its publication in the official City newspaper.

If the official zoning map has been adopted by reference, the amending ordinance shall define the change or boundary as amended, shall order the official zoning map to be changed to reflect such amendment and shall amend the section of the ordinance incorporating the same and shall reincorporate such map as amended.

ARTICLE 11

ADMINISTRATION

1. **Office of the Zoning Administrator:**

- A. **Authorization:** A Zoning Administrator shall be appointed by the City Commission and shall be responsible for the enforcement of these regulations.
- B. **Duties of the Zoning Administrator:** The Zoning Administrator shall enforce these regulations and in addition thereto and in furtherance of said authority, he shall:
- (1) Approve and issue all zoning and occupancy certificates and make and maintain records thereof.
 - (2) Conduct inspections of buildings, structures and uses of land to determine compliance with the provisions of the zoning regulations.
 - (3) Receive, file, and forward to the Board of Zoning Appeals the records in all appeals and all applications for conditional uses and variances.
 - (4) Maintain permanent and current records of the zoning regulations including, but not limited to, all zoning maps, amendments, conditional uses, variances, appeals and applications therefore and records of hearing thereon.
 - (5) Maintain for distribution to the public a supply of copies of the zoning map or maps, the compiled text of the zoning regulations, and the rules of the Board of Zoning Appeals.

2. **Building Permits:**

- A. **Building Permits:** Unless a building permit shall first have been obtained from the Office of the Zoning Administrator:
- (1) The construction, building, moving, remodeling or reconstruction of any structure shall not be commenced and;
 - (2) The improvement of land preliminary to any use of such land shall not be commenced.
- Any building permit issued in conflict with the provisions of these regulations shall be null and void.
- B. **Application for Building Permit:** Every application for a building permit shall include at least the following:

- (1) A plat, in duplicate, of the piece of parcel of land, lot, lots, block or block or parts or portions thereof, drawn to scale showing the actual dimensions of the piece or parcel, lots, lots, block or blocks, or parts or portions thereof, according to the recorded plat of such land.
- (2) A plot plan, in duplicate, drawn to scale and in such form as may, from time to time, be prescribed by the Zoning Administrator, showing the location, ground area, height, and bulk of all present and proposed structures, drives and parking lots, the building lines in relation to lot lines, waste disposal areas, the use to be made of such present and proposed structures on the land, and such other information as may be required by the Zoning Administrator for the proper enforcement of these regulations.

One copy of both the plat and the plot plan shall be retained by the Zoning Administrator as a public record.

- C. **Issuance of Building Permit:** A building permit shall be either issued or refused by the Zoning Administrator within ten (10) days after the receipt of an application or within such further period as may be agreed to by the applicant. No building permit shall be issued unless all the zoning requirements of this ordinance are met.
- D. **Period of Validity:** A building permit shall become null and void six (6) months after the date on which it is issued unless within such six-month period construction, building, moving, remodeling or reconstruction of a structure is commenced or a use is commenced. A building permit is valid for a one-year period from the date of issuance. If building is not completed by the building permit expiration date, the applicant must re-apply for a building permit, showing good cause to the building inspector for the delay in the completion of the building.
- E. **Occupancy Certificates:** No structure or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of these regulations shall be occupied or used for any purpose; and no land vacant on the effective date of these regulations shall be used for any purpose; and no use of any land or structure shall be changed to any other use, unless an occupancy certificate shall first have been obtained from the Office of the Zoning Administrator certifying that the proposed use or occupancy complies with all the provisions of these zoning regulations.
- F. **Application for Occupancy Certificate:** Every application for a building permit shall be deemed to be an application for an occupancy certificate. Every application for an occupancy certificate for a new or changed use of land or structures where no building permit is required shall be filed with the Office of

the Zoning Administrator and be in such form and contain such information as the Zoning Administrator shall provide by general rule.

- G. **Issuance of Occupancy Certificate:** No occupancy certificate for a structure or addition thereto constructed, built, moved, remodeled or reconstructed after the effective date of these regulations shall be issued until such work has been completed and the premises inspected and certified by the Office of the Zoning Administrator to be in full and complete compliance with the plans and specifications upon which the building permit was issued. No occupancy certificate for a new use of any structure or land shall be issued until the premises have been inspected and certified by the Office of the Zoning Administrator to be in full and complete compliance with all the applicable regulations for the zoning district in which it is located. Pending the issuance of a permanent occupancy certificate, a temporary occupancy certificate may be issued to be valid for a period not to exceed six (6) months from its date pending the completion of any addition or during partial occupancy of the premises. An occupancy certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, within ten (10) days after the receipt of an application therefore, or after the Office of the Zoning Administrator is notified in writing that the structures or premises are ready for occupancy.
- H. **Violation and Penalty:** The owner or agent of a building or premises in or upon which a violation of any provision of this regulation has been committed or shall exist; or the lessee or tenant of an entire building or entire premises in or upon which violation has been committed or shall exist; or the agent, architect, building or premises in or upon which violation has been committed or shall exist, shall be punished by a fine not to exceed two hundred (\$200.00) for each offense. Each and every day that such violation continues shall constitute a separate offense. In case any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any structure or land is used in violation of this regulation, the appropriate authorities, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration conversion, maintenance of use, or to correct or abate such violation or to prevent the occupancy of said building, structure or land.

ARTICLE 12

RULES AND DEFINITIONS

1. Rules and Construction and Interpretation:

A. **Rules:**

- (1) In the construction of these regulations, the provisions and rules of this section shall be preserved and applied, except when the context clearly requires otherwise:
 - a. Words used in the present tense shall include the future.
 - b. Words in the singular number include the plural number, and words in the plural number include the singular number.
 - c. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for”, and “occupied for”.
 - d. The word “shall” is mandatory.
 - e. The word “may” is permissive.
 - f. The word “person” includes individuals, firms, corporations, associations, governmental bodies and agencies, and all other legal entities.
 - g. The word “Board” means the Board of Zoning Appeals.
 - h. Unless otherwise specified, all distances shall be measured horizontally.
 - i. The word “City” means City of Cherryvale, Kansas.
 - j. The abbreviation N/A means not applicable.
- (2) Any word or phrase which is defined in this article or elsewhere in these regulations shall have the meaning as so defined whenever the word or phrase is used in these regulations, unless such definition is expressly limited in its meaning or scope.

B. **Interpretation:**

- (1) Minimum Requirements: In their interpretation and application, the provision of these regulations shall be held to be the minimum

requirements for the promotion of the public health, safety, morals and welfare.

- (2) **Overlapping or Contradictory Regulations:** Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by other provision of any other law, ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive shall govern.
- (3) **Private Agreement:** These regulations are not intended to abrogate, annul or otherwise interfere with any easement, covenant or any other private agreement of legal relationship; provided, however, that where the provisions of these regulations are more restrictive (or impose higher standards or requirements) than such easements, covenants or other private agreements or legal relationships, the provisions of these regulations shall govern.
- (4) **Unlawful Uses:** No structure or use which was not lawfully existing at the time of the adoption of these regulations shall become or be made lawful solely by reason of the adoption of these regulations; and to the extent that, and in any respect that, said unlawful structure or use is in conflict with the requirements of these regulations, said structure or use remains unlawful hereunder.

2. **Separability:** It is hereby declared to be the intention of the City that the several provisions of these regulations are separable, in accordance with the following rules:

- A. If any court of competent jurisdiction shall adjudge any provision of these regulations to be invalid, such judgment shall not affect any other provisions of these regulations.
- B. If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure.

3. **Definitions:** For the purpose of this Zoning Regulation, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Accessory Buildings: Subordinate buildings that are incidental to the main/principal building on the premises. Customary accessory buildings include, but are not limited to, detached garages, storage sheds, and garden houses.

Accessory Use: A subordinate use which serves an incidental function to that of the main use of the premises. Customary accessory uses include tennis courts, swimming pools, air conditioners, barbecue ovens, and fireplaces.

Agricultural Use: The use of a tract of land of not less than five (5) acres for the growing of crops, pasturage, nursery, or the raising of poultry, including the structures necessary for carrying out farming operations and the residence or residences of those owning or operating the premises, a member of the family thereof, or persons employed thereon, and the family thereof, but such use shall not include feedlots as defined by State statute.

Alley: A dedicated public right-of-way, other than a street, which provides only a secondary means of access to abutting property, the right-of-way of which is twenty (20) feet or less in width.

Alteration: Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another, shall be considered as an alteration.

Basement: That portion of a building having more than one-half of its height below grade.

Board of Zoning Appeals: That Board which has been created by the Governing Body having jurisdiction and which has the statutory authority to hear and determine appeals, conditional uses and variances to the zoning regulations.

Building: Any structure designed or intended for the enclosure, shelter or protection of persons, animals or property.

Building, Height: The vertical dimension measured from the average elevation of the finished lot grade at the front of the building to the highest point of ceiling of the top story in the case of a flat roof; to the deck line of a mansard roof; and to the average height between the plate and ridge of a gable, hip, or gambrel roof

Common Open Space: An area of land or water or combination thereof planned for passive or active recreation, which does not include areas utilized for streets, alleys driveways or private roads, off-street parking or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

Condominium: A single dwelling unit under individual ownership within a multiple dwelling unit structure. A multiple-family structure with two condominiums shall be considered a two-family dwelling and a condominium with more than two condominiums shall be considered a multiple-family dwelling.

District: A section or sections of the zoning area for which these regulations governing the use of land, the height of buildings, the size of yards and the intensity of use are uniform.

Day Care Center: A building or place where care, supervision, custody or control is provided for more than four (4) unrelated children or adults for any part of a 24-hour day up to twelve (12) hours.

Day Care Nursery: A residence or building in which care, supervision, custody or control is provided for four (4) or less unrelated children or adults for any part of a 24 hour day up to twelve (12) hours. Baby sitting service for four (4) or less infants shall be considered a day care nursery.

Disability: A physical or mental impairment which substantially limits one or more of such person's major life activities, a record of having such an impairment, or being regarded as having such an impairment. Such term does not include current, illegal use of or addiction to a controlled substance, as defined in section 102 of the controlled substance act (21 U.S.C. 802); or any person assigned to a community corrections program or diversion program, on parole from a correctional institution or on probation for a felony offense, or in a state mental institution following a finding of not guilty by reason of insanity.

Dog: Any canine specie over twelve (12) months of age.

Dwelling: A building or portion thereof, not including mobile homes, which is designed and used exclusively for residential purposes.

Dwelling, Single-Family: A residential building having accommodations for and occupied exclusively by one family.

Dwelling, Single-Family Attached: A portion of a residential building having accommodations for and occupied exclusively by one family, and which is located on a separate lot of record apart from the remaining portions of the building.

Dwelling, Two Family: A residential building having accommodations for and occupied exclusively by two families, independently.

Dwelling, Multiple: A residential building having accommodations for and occupied exclusively by more than two families, independently.

Dwelling for the Elderly and/or Handicapped: A two-family or multiple-family-residential building having accommodations for and occupied exclusively by elderly or handicapped residents and necessary maintenance personnel. Elderly residents are those people who are at least sixty-two (62) years of age. Handicapped persons are those

people having an impairment which is expected to be of long, continuous and indefinite duration, is a substantial limitation to their ability to live independently, and is of a nature that such ability could be improved by more suitable housing.

Earth-Sheltered Residence: A residence designed as a complete structure below or partially below ground level, whose perimeter walls comply with the yard requirements of the district in which it is located.

Family: One or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than four (4) unrelated persons living together as a single housekeeping unit; plus in either case, usual domestic servants. A family shall under no circumstances be construed as a boarding house, fraternity, or sorority house, club, lodging house, hotel, motel or commune.

Fence: A protective, confining or decorative barrier separate from any building and not including any living plant material.

Floor Area:

- A. For Computing Off-Street Parking Requirements: Shall mean the gross floor area of the building measured from the exterior faces of the exterior walls or from the centerline of walls separating two buildings and shall include the following areas:
 - 1. The basement floor area.
 - 2. The area of each floor of the structure
 - 3. The attic space having headroom of seven (7) feet or more.

Foster Home: A residence or building in which more than twelve (12) hour care is provided to no more than five (5) children, one or more of which are unrelated to the foster parents. Foster homes shall be permitted in all residential structures, the same as would a family.

Frontage: The length of the property abutting on one side of a street measured along the dividing line between the property and the street.

Gasoline Service Station: A service station shall consist of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced. Self-service pumps without buildings shall also be included. Such service shall not include tire recapping body repairs, or major overhaul.

Governing Body: The City Council of Cherryvale, Kansas.

Group Home: Any dwelling occupied by not more than 10 persons, including eight or fewer persons with a disability, as defined in this ordinance, who need not be related by blood or marriage and not to exceed two staff residents who need not be related by blood or marriage to each other or to the residents of the home, and which is licensed by the Department of Social and Rehabilitation Services or the Department of Health and Environment.

Home Occupation: A business, profession, service or trade conducted for gain or support entirely within a residential building.

Hotel: A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals and whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court, or other similar designation.

Kennel-Boarding: Any place, area, building, or structure where dogs (including those under one (1) year of age) are boarded, housed, cared for, fed, or trained by other than the owner.

Kennel-Breeding: Any place, area, building, or structure where more than four (4) dogs are kept for purposes of breeding, raising, or as pets.

Lot, Corner: A lot abutting upon two or more streets at their intersection.

Lot, Depth of: The mean horizontal distance between the front and the rear lot lines.

Lot, Double Frontage: A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot of Record: A lot which is a part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds; or a lot described by metes and bounds, the description of which has been recorded in the office of the Register of Deeds prior to the adoption of this regulation.

Lot, Zoning: A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots or record, one or more portions of a lot or lots or record, or any combination thereof.

Medical Clinic: Any building designed for use by one or more persons lawfully engaged in the diagnosis, care and treatment of physical or mental diseases or ailments of human beings; including, but not limited to, doctors or medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, and in which no patients are lodged overnight, but which may include an apothecary.

Manufactured Home: A structure which is subject to the federal manufactured home

construction and safety standards established pursuant to 42 U.S.C. § 5403, and constructed on or after June 15, 1976.

Manufactured Home Residential-Design: A manufactured home which satisfies the following additional criteria:

- (a) The manufactured home has minimum dimensions of 22 feet in width and 40 feet in length.
- (b) The pitch of the roof of the manufactured home has a minimum vertical rise of 4 feet for each 12 feet of horizontal run and the roof is finished with a type of shingle that is commonly used in standard residential construction in the City;
- (c) All roof structures shall provide an eave projection of no less than 12 inches, exclusive of any guttering;
- (d) The exterior siding consists of vinyl or metal horizontal lap siding (whose reflectivity does not exceed that of low luster white paint), wood, or hardboard, comparable in composition, appearance and durability to the exterior siding commonly used in standard residential construction in the City;
- (e) The manufactured home shall be set up in accordance with the recommended installation procedures of the manufacturer and the standards set by the National Conference of States on Building Codes and Standards and published in “Manufactured Home Installations, 1987” (NCS BCS A225.1), and a continuous, permanent masonry foundation or masonry curtain wall, or poured concrete wall, unpierced except for required ventilation and access, is installed under the perimeter of the Residential-Design Manufactured Home.
- (f) Stairs, porches, entrance platforms, ramps and other means of entrance and exit to and from the home shall be installed or constructed in accordance with the standards set by the building code and attached firmly to the primary structure and anchored securely to the ground; and it is the purpose of these criteria to ensure that a Residential Design Manufactured Home, when installed, shall have substantially the appearance of an on-site, conventionally built, single-family dwelling.

Manufactured Home Park: Any area, piece, parcel, tract, or plot of ground equipped as required for support of manufactured homes and offered for use by the owner or representative for manufactured home park purposes and/or ground upon which three or more manufactured homes are parked, whether for compensation or not, including all accessory uses thereof. The term “manufactured home park” does not include sales lots of which unoccupied manufactured homes are parked for the purpose of inspection and sale. See Supplementary District Regulations.

Modular Home: A manufactured residential structure built to a nationally-recognized and accepted construction standard published by the Building Officials Conference of America (BOCA) or the International Conference of Building Officials (ICBO) and the unit is inspected and certified at the factory that it meets said standard.

Mobile Home: A transportable structure larger than 320 square feet in floor area, designed to be used as a year-round residential dwelling, and built prior to the enactment of the Federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction on June 15, 1976.

Nonconforming Structure: A structure which does not comply with the lot size requirements or bulk regulations applicable to new structures in the zoning district in which it is located.

Nonconforming Use: An existing use of a structure or land which does not conform with the regulations of the district in which it is situated as established by this regulation or any amendments hereto.

Nursing Homes or Convalescent Homes: An institution or agency licensed by the State for the reception, board, care, or treatment of three (3) or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

Planning Commission: The Cherryvale City Planning Commission.

Public Utility: Any business which furnishes the general public (a) telephone service, (b) telegraph service, (c) electricity, (d) natural gas, (e) water and sewer, or (f) any other business so affecting the public interest as to be subject to the supervision or regulation by an agency of the State.

Recreational Vehicle: A vehicular-type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use and which has its own motive power or is mounted or drawn by another vehicle, and which has a body width not exceeding eight feet and a body length not exceeding 40 feet.

Private Club: A non-profit association of persons who are bona fide members paying annual dues, which owns, hires, or leases a building or premises, or portion thereof, the use of such building or premises being restricted to members and their guests. The affairs and management of such private club are conducted by a board of directors, executive committee, or similar body chosen by the members at their annual meeting. It shall be permissible to serve goods and meals on such premises providing adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed, provided it is secondary and incidental to the promotion of some other common objective by the organization, and further provided that such sale of alcoholic beverages is in compliance with the applicable

Federal, State and Municipal laws.

Restaurant: An establishment whose primary purpose is the sale, dispensing or service of food, refreshments or beverage in automobiles, including those establishments where customers may serve themselves, except that this shall not be construed as to include what is commonly called a cafeteria.

Right-of-Way: A strip of land occupied or intended to be occupied by a street crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer, or for another special use.

Salvage Yard: A place where junk, waste, discarded or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, handled or prepared for recycling, which shall include auto wrecking yards, but shall not include retail secondhand furniture stores or the purchase and storage of used or salvaged materials as a part of a manufacturing operation.

Sanitary Landfill: A lot or parcel of land used primarily for the disposal and burial of garbage, sewage, trash, refuse, junk, discarded machinery or motor vehicles or parts thereof, or other waste.

Secretary of the Planning Commission: The Zoning Administrator or other individual appointed by the Planning Commission to perform prescribed administrative duties.

Sign: Any device which shall display or include any letter, word, model, banner, flag, pennant, insignia, device, or representation used as, or which is in the nature of, an advertisement or announcement which directs attention to an object, product, place, activity, person, institution, organization, or business, but shall not include any display of official notice or official flag.

Sight Triangle: An area at a street intersection in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of 2-1/2 feet and 8 feet above the grades of the bottom of the curb of the intersecting streets, measured from the point of intersection of the centerline of the streets, 90 feet in each direction along the centerline of the streets. At the intersection of an arterial street, the 90-foot distance shall be increased to 120 feet.

Special Use Permit A special use permit is a permit issued by the Zoning Administrator with the authorization of the Board of Zoning Appeals. This special use permit provides permission under special conditions to make certain special uses of land in certain zoning districts as stipulated in each of the district zoning regulations.

Street: A right-of-way, dedicated to the public use, which provides vehicular and pedestrian access to adjacent properties.

Street Line: A dividing line between a lot, tract, or parcel of land and the contiguous street.

Street Network:

- A. Expressway: A street which provides fast and efficient movement of large volumes of traffic between areas and does not provide a land service function.
- B. Arterial: A street which provides for through traffic movement between and around areas with direct access to abutting property, subject to necessary control of entrances, exists, and curb cuts.
- C. Collector: A street which provides for traffic movement between materials and local streets, with direct access to abutting property.
- D. Local: A street which provides direct access to abutting land and local traffic movement whether in business, industrial, or residential areas.

Structure: Anything constructed or erected, the use of which requires permanent location on the ground or attachment to something having a permanent location on the ground, but not including fences or public items such as utility poles, street light fixtures, and street signs.

Structural Alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:

- A. Attachment of a new front where structural supports are not changed.
- B. Addition of fire escapes where structural supports are not changes.
- C. New windows where lintels and support walls are not materially changed.
- D. Repair or replacement of non-structural members.

Tavern: An establishment in which the primary function is the public sale and serving alcoholic and cereal malt beverages for consumption on the premises, including establishments commonly known as key clubs, which are open, and in which alcoholic and cereal malt beverages are served only to members and their guests.

Travel Trailer or Recreational Vehicle: A vehicular-type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its

own motive power or is mounted on or drawn by another vehicle. Examples are travel trailers, camping trailers, truck campers, and motor homes. Manufactured homes and modular homes shall not be considered trailers or recreational vehicles.

Yard: A space on the same lot with a main building, open, unoccupied and unobstructed by buildings or structures from the ground upward.

Yard, Front: A yard extending across the full width of the lot, the depth of which is the least distance between the street right-of-way and the building setback line.

Yard, Rear: A yard extending across the full width of the lot, the depth of which is the least distance between the rear lot line and the rear setback line.

Yard, Side: A yard extending from the front yard, or front lot line where no front yard is required, to the rear yard.

Zone or District: A section of the Zoning Area for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open space are herein established.

Zoning Administrator: The person or persons authorized and empowered by the Governing Body having jurisdiction to administer the requirements of these zoning regulations.

Zoning Area: The area to be zoned as set out on the official Zoning Map filed of record.

Zoning Regulations: The term “zoning regulations” or “this or these regulations” shall mean the requirements stipulated in the regulations herewith attached, and shall mean the lawfully adopted zoning ordinances of the City of Cherryvale.

[illegible]

Antiques—retail	5931							P	P	P		
Apiary farms and processing	8191	C									P	P
Apparel and accessories—manufacturing	2389											P
Apparel and accessories—retail	5610									P		
Apparel and accessories—wholesale	5132								P		P	P
Apparel belts—manufacturing	2385											P
Apparel findings and related products—manufacturing	2396											P
Appliance repair services	6497							P	P	P		
Appliances (electrical) televisions, phonographs, tape players, radio sets—wholesale	5162								P		P	P
Appliances (household)—manufacturing	3433											P
Appliances (household)—retail	5720									P		
Aquariums	7122							P	P	P		
Arboretums and botanical gardens	7123							P	P	P		
Architectural, engineering and planning—professional services	6591						P	P		P		
Arenas and field houses	7222							P	P	P		
Armature rewinding services	6495										P	P
Armed forces reserve center	6757							P	P	P		
Art galleries	7113							P	P	P		
Artists—painters, sculptors, composers and authors	6594							P	P	P		
Asbestos, abrasive and miscellaneous nonmetallic mineral products—manufacturing	3280											C
Asphalt felts and coatings—manufacturing	2922											C
Asphalt mixing plants	2921										P	P
Athletic field or playfield	7423	C	P	P	P	P	P	P	P	P	P	P
Athletic, amusement and sporting goods and toys—manufacturing	3920											P
Auditing, accounting and bookkeeping services	6593						P	P		P		
Auditoriums	7231							P	P	P		
Automatic temperature controls—manufacturing	3522										P	P
Automobile and other motor vehicle and equipment—manufacturing	3441											P
Automobile and other motor vehicle repair services	6411							P	P	P		
Automobile and other motor vehicles—retail	5511								P	P		
Automobile and other motor vehicles—wholesale	5111										P	P
Automobile and truck rental services	6397								P	P		
Automobile equipment—wholesale	5112										P	P
Automobile parking—commercial lots	4600	C	C	C	C	C	P	P	P	P	P	P
Automobile parts and supplies—retail	5520							P	P	P		
Automobile wash services	6412							P	P	P	P	

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

O

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P

[illegible]

[illegible]

Pleating, decorative and novelty stitching and tucking for the trade—manufacturing	2395										P	P
Plumbing and heating equipment and supplies—retail	5220								P	P		
Plumbing and heating equipment and supplies—wholesale	5172										P	P
Plumbing fixtures and heating apparatus (except electrical)—manufacturing	3493											P
Plumbing, heating and air conditioning contracting services	6621								P	P		
Plywood and veneer—manufacturing	2432											P
Police protection and related activities	6721	P					P	P	P	P	P	P
Porcelain electrical supplies—manufacturing	3254											P
Postal services	6730						P	P		P		
Pottery—manufacturing	3259										P	P
Poultry and eggs—retail	5491							P	P	P		
Poultry and poultry products—wholesale	5143										P	P
Poultry and small game dressing and packing	2113	C									P	P
Poultry hatchery services	8230	C										
Prefabricating wooden buildings and structural members—manufacturing	2433											P
Preserving and canning of fruits, vegetables and seafoods—manufacturing	2130											P
Pressed and molded pulp goods—manufacturing	2646											P
Pressing, alteration and garment repair services	6251							P	P	P		
Primary smelting and refining of nonferrous metals—manufacturing	3330											P
Printing and publishing of books	2730										P	P
Printing and publishing of newspapers	2710										P	P
Printing and publishing of periodicals	2720										P	P
Printing ink—manufacturing	2893											P
Printing, commercial	2740										P	P
Prisons	6741	C										
Private clubs	5821							P	P	P		
Processing waste and recovering fibers and flock—manufacturing	2294											P
Professional equipment and supplies—wholesale	5183								P		P	P
Professional membership organizations	6992						P	P		P		
Professional offices not elsewhere listed	6595						P	P		P		
Pulp—manufacturing	2610											P

Q

[illegible]

Rest, nursing and convalescent home services	6516		C		P		C					
Restaurants	5810							P	P	P		
Restaurants, drive-in	5811							P	P	P	P	
Retail trade not elsewhere listed	5990									P		
Retirement home	1241				P		C					
Reupholstery and furniture repair services	6494							P	P	P		
Rice milling	2144	C									P	P
Riding stables	7416	C										
Road maintenance yards	4510								P	P		
Robes and dressing gowns—manufacturing	2382											P
Roller skating rinks—indoor	7415							P	P	P		
Rolling of ferrous metals, blast furnaces and steel works	3311											P
Rolling, drawing and extrusion of nonferrous metals—manufacturing	3350											P
Roofing and sheet metal contracting services	6626								P	P		
Rooming and boarding houses	1210				P		C					
Rubber footwear—manufacturing	3120											P
Rubber products, fabricated—manufacturing	3190											P
Rug and carpet cleaning and repair services	6215										P	P
Rug and carpet—manufacturing	2240											P

S												
Salvage yard	3610	C									C	P
Sand and gravel quarrying	8543	C										
Sanitary landfill	4854	C										C
Sanitary paper products—manufacturing	2647											P
Sausages and other prepared meat products—manufacturing	2112											P
Savings and loan associations	6121						P	P		P		
Sawmills and planing mills, general—manufacturing	2421											P
Schools, art	6834						P	P	P	P		
Schools, barber	6833							P	P	P		
Schools, beauty	6833							P	P	P		
Schools, business	6832						P	P	P	P		
Schools, colleges	6821						P	P	P	P		
Schools, computer	6832						P	P	P	P		
Schools, correspondence	6837						P	P	P	P		
Schools, dancing	6835						P	P	P	P		
Schools, day care	6811				C			P	P	P		
Schools, driving	6836						P	P	P	P		
Schools, junior colleges	6822						P	P	P	P		

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Soaps and detergents (except specialty cleaners)—manufacturing	2841											P
Social correctional, treatment and counseling services	6742						P	P	P	P		
Social, civic and fraternal associations	6994							P	P	P		
Solid waste transfer stations	4859	C							C		C	C
Sorority and fraternity houses	1221				P		C					
Souvenirs, gifts and novelties—retail	5995							P	P	P		
Soybean oil milling	2192	C									P	P
Sporting goods—retail	5951									P		
Sporting, toys, amusement and athletic goods—manufacturing	3930											
Stadiums	7221							P	P	P		
Stationery—retail	5942							P	P	P		
Steel pipe and tubes—manufacturing	3315											P
Steel wire drawing, steel nails and spikes—manufacturing	3313											P
Steel works, blast furnaces and the rolling of ferrous metals	3311											P
Stenographic, duplicating, and mailing services	6339						P	P		P		
Stockyards	6372	C										
Stone products and cut stone—manufacturing	3270											P
Stone work, masonry, tile setting and plastering services	6624								P	P		
Stone—quarrying	8542	C										
Storage and warehousing of hazardous products	6377										P	P
Storage and warehousing of household goods	6375								P		P	P
Storage and warehousing of nonhazardous products	6376								P		P	P
Store and office fixtures, lockers, partitions and shelving—manufacturing	2540											P
Sugar refining—manufacturing	2160											P
Surgical and medical instruments and apparatus—manufacturing	3541											P
Swimming clubs	7431	C					P	P	P			
Synagogues, churches, and temples	6911	P	P	P	P	P	P	P	P	P		
Synthetic resins, synthetic rubber, plastic materials, synthetic and other manmade fibers (except glass)—manufacturing	2820											P
T												
Tailoring (custom)	5670							P	P	P		
Tanks (military) and tank components—manufacturing	3413											P
Taverns	5822							P	P	P		

Taxicab dispatch	4291							P	P	P		
Taxicab garaging and maintenance	4292								P		P	P
Telegraph communications	4720							P	P	P		
Telephone business office	4713						P	P		P		
Telephone exchange stations	4711	C	C	C	C	C	P	P	P	P	P	P
Telephone maintenance yard	4714								P	P		
Telephone relay towers (microwave)	4712	C						P	P	P	P	P
Television broadcasting studios	4741						P	P		P		
Television transmitting stations and relay towers	4742	C						P	P	P	P	P
Television, radios, phonographs, recorders and tape players—manufacturing	3435											P
Television, radios, phonographs, recorders and tape players—repair service	6492							P	P	P		
Television, radios, phonographs, recorders and tape players—retail	5731									P		
Temples, churches, and synagogues	6911	P	P	P	P	P	P	P	P	P		
Tennis clubs	7413	C						P	P	P		
Testing, research, and development services	6391						P	P		P		
Textile bags—manufacturing	2393											P
Theaters, legitimate	7214							P	P	P		
Theaters, motion picture, indoor	7212							P	P	P		
Theaters, motion picture, outdoor	7213	C							P			
Threads and yarns, manufacturing	2250										P	P
Tile setting, masonry, plastering and stone work services	6624								P	P		
Tire cord and fabric—manufacturing	2296											P
Tires and inner tubes—manufacturing	3110											P
Tires and inner tubes—wholesale	5113								P		P	P
Title abstracting services	6153						P	P		P		
Tobacco and snuff—manufacturing	3963											P
Tobacco and tobacco products—wholesale	5148								P		P	P
Tobacco leaf—wholesale	5154										P	P
Tobacco stemming and redrying	3964	C									P	P
Tot lot or play lot	7421	P	P	P	P	P	P	P	P	P	P	P
Tourist courts, hotels, and motels	1510							P	P	P		
Toys, amusement, sporting and athletic goods—manufacturing	3930											
Transportation equipment and supplies (except motor vehicles)—wholesale	5185										P	P
Trap and skeet shooting ranges	7418	C										
Travel arranging services	4923						P	P		P		
Truck and automobile rental services	6397								P	P		

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Wooden containers—manufacturing	2440											P
Wool and mohair—wholesale	5155								P		P	P
Wool preserving—manufacturing	2491											P
Worm farms	8160	C										
Y												
Yarns and threads—manufacturing	2250										P	P
Z												
Zoos	7124								P	P	P	